

PART 3

SECTION 7

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OF 1996 (HIPAA)

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7000 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) (PL104-191)

(a) The Health Insurance Portability and Accountability Act of 1996 (HIPAA) affects the handling of Protected Health Information (PHI).

(b) Compliance with the HIPAA is to insure and maintain privacy and confidentiality of sensitive materials, including personal health information of individuals, in accordance with HIPAA laws. (PL 104-191)

(c) Protected Health Information (PHI) includes demographic information collected by the **FSSA DA**, that relates to the past, present, or future physical or mental health or condition of an individual.

(d) PHI also includes past, present, or future payment provision of healthcare to an individual, and identifies (names) the individual, or information that can be used to identify the individual, such as SSN or address. Names and addresses alone are not protected information. It must be accompanied by medical information.

7001 THE **FSSA DA POLICY AND PROCEDURES REGARDING HIPAA COMPLIANCE**

Employees of the **FSSA DA** shall adhere to the guidelines listed in this part of the **FSSA DA** Operations Manual and to the rules of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (PL104-191).

7002 HIPAA COMPLIANCE POLICY FOR THE **FSSA DA INCLUDING SECURING CENTRAL, ELECTRONIC AND INDIVIDUAL FILES (DESKS)**

(a) All PHI is to be filed in locking file cabinets, whether in the central files or in individual files.

(1) Keys for the central files will be maintained by the office manager. The Asst. Director of Administrative Services and the HIPAA Coordinator will serve as back-ups for the office manager.

(2) Each individual will be responsible for locking his/her own files and desks nightly. Keys can be obtained from the office manager, who will keep a duplicate key for each cubicle or cabinet in a locked location.

(b) Should an employee need to be away from the workstation for any length of time, PHI needs to be secured. For short trips away, such as going to the restroom or copier, PHI must be removed from sight until the return of the employee.

(c) Electronic files or computer applications containing PHI must be exited or obscured by a password protected screensaver prior to employees leaving the workstations. No applications should be left "open" overnight.

(d) Unauthorized persons may not view files, electronic or otherwise, containing PHI at any time. "Unauthorized persons" is defined as staff persons not directly associated with

the case/program. This may include staff from other areas or divisions.

(e) Files containing confidential information are not to be removed from the office unless written authorization is received by the **FSSA DA** Director. Requests must be made in writing or e-mail, prior to the removal of the information and must state the purpose of the removal, the length of time the information will be out, and the location that the file will be used. In addition, the request and approval must show the date and time the request was submitted and subsequently approved.

7002.1 COPY ROOM

(a) The copy room will be off limits to any individual who is not HIPAA certified or accompanied by a HIPAA certified staff person. Individuals who are HIPAA certified must have proof of HIPAA certification on file with the HIPAA coordinator.

(b) Signs will be posted outside the copy room stating this policy.

7002.2 FAX MACHINES

(a) The office manager will designate individuals who will check the fax machines 3 times daily to remove any PHI. These documents will be distributed into the fax boxes located between the machines. Individuals are responsible for retrieving/filing and or the destruction of these documents.

(b) The fax machines are set to receive overnight documents into their memory banks. Overnight faxes will be retrieved each morning by an individual designated by the office manager or Assistant Director of Administrative Services.

7002.3 COPIER/PRINTER

(a) Any document containing PHI that is copied on the **FSSA DA** copier must not be left unattended and must be removed immediately upon completion of the task.

(b) Any documents containing PHI sent to the copier for printing must either:

(1) be removed immediately upon completing the print task; or

(2) be stored in the individual's electronic mailbox contained in the hard drive of the copier for later printing. See the **FSSA DA** office manager for instructions on printing to your mailbox.

(c) At no time should documents containing PHI be left on any of the network printers.

7002.4 PHONE/PUBLIC AREAS

Employees are required to use reasonable measures such as speaking in a soft voice when discussing confidential issues when on the phone or in public areas.

7003 DISPOSAL OF PROTECTED HEALTH INFORMATION (PHI)

(a) According to the Indiana Commission on Public Records General Retention Schedule, inactive client files are to be retained for 3 years once the files have become inactive. After 3 years of inactivity, client files are to be destroyed.¹

(b) Bank statements for the Money Management Program will be retained in the **FSSA DA** for 3 years and then will be transferred to the Records Center, and will subsequently be destroyed after 12 more years (15 years total).²

(c) Once inactive files achieve the required retention, those files are to be shredded.

(1) Employees may use the **FSSA DA** shredder on small amounts of PHI documents.

(2) PHI can be deposited in the locked container located on the 4W freight elevator loading dock.

(d) Each Unit is responsible for the disposal of their PHI waste on a daily basis. The Unit Manager can determine how that is to be done, but it must be done daily. No PHI should be put in an unsecured recycle box at any time.

7004 AAA POLICY AND PROCEDURES

(a) AAAs will provide assurances of compliance with Public Law 104-191 (HIPAA) through written policy and procedures.

(b) These assurances will include policies and procedures regarding the following:

(1) PHI destruction;

(2) HIPAA files; and

(3) HIPAA copy/print/fax.

(c) The AAA will also provide assurances through written policy and procedures of all Service Providers compliance with Public Law 104-191 (HIPAA).

7005 SERVICE PROVIDERS POLICY AND PROCEDURES

(a) Service Providers will cooperate with all monitoring procedures and assurances performed by the AAAs, to insure adherence to HIPAA guidelines and policies.³

(b) Service Providers will adhere to HIPAA guidelines regarding the disposal of PHI, in using copy machines, fax machines, printers and in the use and storage of electronic and individual files.

¹ (GRADM-4) General Records Administration

² (GRACC-3) General Records Accounting

³ Public Law 104-191 (HIPAA)

More Information can be found in the following:

Public Law 104-191
FSSA – ADI -18

Web Site

Indiana Family and Social Services Administration Intranet

SECTION 8

8000 NUTRITION SERVICES

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8000 NUTRITION PROGRAM SERVICES

Nutrition Program Services provide eligible participants with hot or otherwise appropriate, nutritionally balanced meals served in a congregate setting where surroundings promote social interaction among the individuals or home delivered meals to those participants in need of this service. Individual nutrition assessments, individual nutrition counseling, group and individual nutrition education, and outreach are also services provided as part of Indiana's Nutrition Program.

8001 RESPONDING TO THE NEEDS OF INDIANA'S OLDER ADULTS

CHART 16

Older Americans Act, Section 339 (2)(B) A State that establishes and operates a nutrition project under Title III-C shall provide flexibility to local nutrition providers in designing meals that are appealing to program participants.

(a) The OAA allows flexibility to develop slightly different nutrition programs in each Planning and Service Area (PSA). This means that Nutrition Providers can develop programs that are responsive to local need. Service delivery for both congregate and home-delivered meals programs can evolve with the needs of local nutrition services participants.

(b) Indiana's Area Agencies on Aging and their Nutrition Providers are encouraged to think broadly about defining nutrition services in terms of effective outreach to target populations, screening, assessment, counseling, education, programming, service coordination, and referrals, as well as meal provision.

8002 FUNDING SOURCES FOR INDIANA'S NUTRITION PROGRAM

(a) Nutrition services are funded by:

(1) Title III from the Administration on Aging (AoA) including the Nutrition Services Incentive Program (NSIP); and

(2) Social Services Block Grant (SSBG) and the Aged and Disabled Medicaid Waiver provide additional Federal funding. The State also provides funding for nutrition services through the Older Hoosier Fund and the Community and Home Options to Institutional Care for the Elderly and Disabled (CHOICE) Program. In addition, the local Area Agencies on Aging supplement their nutrition service programs through Program Income, and with local support from their PSA.

8003 NUTRITION SERVICE INCENTIVE PROGRAM (NSIP)

(a) Until 2003, the Nutrition Services program was administered by USDA as a cash and/or commodities program to supplement OAA meals, but it has been authorized under the Older Americans Act in one form or another, since 1978.

(b) In 2003, administration of the program was transferred to the Administration on Aging. There are no significant changes in the program as a result of this transfer. Commodities or cash in lieu of commodities are still available. The new name refers to the fact that the cash or cash for commodities allocation is a proportional share of a federal fiscal year allocation.

(c) As long as the meal satisfies the requirements of the OAA they are eligible to be reported for purposes of the NSIP regardless of funding source. The more meals reported to AoA by the State, the larger the state's share of the federal allocation. The purpose of the program is to reward performance in meal delivery by programs funded, in whole or in part, under Title III and VI of the OAA.¹

(d) For information regarding reporting requirements for NAPIS purposes, see Section **2037** of this Manual.

8003.1 NSIP MEALS

(a) A Nutrition Services Incentive Program (NSIP) Meal is a meal served that meets all the requirements of the OAA, which means at a minimum, the following:

- (1) it has been served to a participant who is eligible under the OAA and has NOT been means-tested² for participation;
- (2) it is compliant with the nutrition requirements;
- (3) it is served by an eligible agency; and
- (4) it is served to an individual who has an opportunity to contribute.

(b) NSIP meals also include home delivered meals provided as Supplemental Services under the National Family Caregiver Support Program (Title III-E) to persons aged 60 and over who are either care recipients (as well as their spouse of any age) or caregivers.³

(c) NSIP cash may still be used to purchase U.S. agricultural commodities and other foods of U.S. origin. NSIP funds may not be used to supplant funds previously earmarked for services to older adults.

8003.2 CASH OR COMMODITIES TO SUPPLEMENT MEALS

(a) The AAA has the option to receive cash and/or commodities from the NSIP Program (pending State approval).

(b) The AAA must ensure the nutrition service provider uses the commodities offered for meal preparation and service to the meal program participant.

(c) The nutrition service provider is responsible for transportation, if necessary, proper storage,

¹ United States Code, 42 USC Section 3030a

² See *Glossary of Terms* found in the front of this manual.

³ Administration on Aging, HHS, Reporting Requirements For Title III and VII, March 2004

and use of the food in a safe, efficient, and effective manner.

8004 PROGRAM SERVICES ELIGIBILITY

(a) The AAA is to ensure that nutrition services will be provided to older individuals and to their spouses.¹

(b) Service priority shall be given to participants who are age 60 or over and who are frail, homebound by reason of illness or incapacitating disability, or otherwise isolated.

(c) The AAA may make available nutrition services to individuals with disabilities who are not older individuals but who reside in housing facilities occupied primarily by older individuals at which congregate nutrition services are provided.²

(d) Refer to Operations Manual, Family Caregivers Support Program, Section 4011 for information regarding delivery of meals to unpaid caregivers.

8004.1 NUTRITION SERVICES PROGRAM INCOME

CHART 17

Older Americans Act, 315(b)(2)

The Area Agency on Aging shall consult with the relevant service providers and older individuals in agency's planning and service area in a State to determine the best method for accepting voluntary contributions...

8004.2 VOLUNTARY CONTRIBUTIONS

CHART 18

Older Americans Act, 315(b)(1)

Voluntary Contributions shall be allowed and may be solicited for all the services for which funds are received under Title III, provided that the method of solicitation is non-coercive.

(a) The AAA must safeguard and account for all contributions and have written policies and procedures in place to ensure collected contributions are used to expand nutrition services within the PSA.³

(b) Program income includes voluntary contribution made by the client. For more information, see Section **5007.5.4** - *Service Providers Policy and Procedures Regarding Program Income* - of this manual.

(c) Also, see the Older Americans Act, Section 315.

¹ Older Americans Act (as amended in 2000), Title III, Part C-Nutrition Services, Subpart 3, Section 339 (2)(I).

² Older Americans Act (as amended in 2000), Title III, Part C-Nutrition Services, Subpart 3, Section 339 (2)(H).

³ Older Americans Act (as amended in 2000), Sec. 315. Consumer Contributions (b) Voluntary Contributions (4).

8004.3 COST SHARING AND MEANS TEST

(a) The State is not permitted to implement any cost share for congregate and home delivered meals.¹

(b) The AAA/provider, under the OAA may develop a suggested contribution schedule for services provided. In developing a contribution schedule, the provider shall consider the income ranges of older persons in the community and the provider's other sources of income. However, means tests may not be used.²

(c) For more information, see Section 5007.3 - *The Division of Aging Procedures Regarding Contributions*- of this manual. Also, see the Code of Federal Regulations, 45 CFR 92.25(g) (3).

8004.4 CLIENT PRIVACY

The AAA must ensure the privacy and confidentiality of each participant with respect to the participant's contribution or lack of contribution.³

8005 DIVISION OF AGING POLICY AND PROCEDURES REGARDING NUTRITION SERVICES

CHART 19

Division of Aging Policy Statement Regarding Nutrition Services

The Division of Aging shall develop and coordinate a statewide nutrition program that will be administered through 16 AAAs. The Division of Aging shall establish minimum standards for the delivery of nutrition services.

(a) The Division of Aging shall establish, monitor, and assess the nutrition program to assure operation in compliance with the OAA, Division of Aging Operations Manual, and Area Plan.⁴

(b) The Division of Aging shall solicit the advice of a dietitian or individual with comparable expertise in the planning of nutritional services.⁵

8005.1 MONITORING AND ASSESSMENT

(a) The Division of Aging and United States Government shall have the right to enter the premises of the AAA or any subcontractor of the AAA and audit any records and property maintained by the AAA or its subcontractors in connection with their agreement with the Division of Aging.

(b) The AAA and its subcontractors shall make all books, records and documents that relate to their activities available for inspection, review and audit when requested by authorized

¹ Older Americans Act (as amended in 2000), Sec. 315. Consumer Contributions (a) Cost Sharing (2), (C), and Title

² Code of Federal Regulations 11/00, Title 45, Chapter XIII, Part 1321, Subpart D, Sec. 1321.67 (c).

³ Older Americans Act (as amended in 2000), Sec. 315. Consumer Contributions (b) Voluntary Contributions (4).

⁴ State/Grantee Agreement V. Audits, Records, Reports, and Inspections

⁵ Older Americans Act (as amended in 2000), Part C-Nutrition Service, Subpart 3-General Provisions, Sec.339, Nutrition, (1).

representatives of the State of Indiana or the United States government.¹

(c) For information on Division of Aging monitoring and assessment responsibilities, see Section **2008 - Monitoring and Assessment**.

8005.2 TRAINING ACTIVITIES

The Division of Aging shall provide technical assistance and training to AAA and service provider staff as needed or requested.

8006 AAA POLICIES AND PROCEDURES REGARDING NUTRITION SERVICES

CHART 20

Older Americans Act, 339 (2)(G)

A State that establishes and operates a nutrition project under Title III-Part C- Nutrition Services is to ensure the nutrition services program is provided through the advice of dietitians (or individuals with comparable expertise), meal participants and other individuals knowledgeable with regard to the needs of older individuals.

8006.1 CONGREGATE AND HOME DELIVERED MEALS

(a) A congregate meal is food provided by an AAA through a contracted service provider, to a qualified individual in a congregate or group setting. The meal, as served, shall meet all the requirements of the Older Americans Act and State/Local laws.²

(b) A Home delivered meal is a meal provided to a qualified individual at his/her place of residence. The meal is served as part of a program administered by the AAA and meets all the requirements of the Older Americans Act and State/Local laws.³

8006.2 CONGREGATE MEAL SITES

(a) The AAA shall notify the Division of Aging in writing before a meal site is opened, relocated, or closed. **The notification shall include the following:**

(1) name and location of current meal site, and proposed relocation site (if applicable);

(2) the rationale for the closure or relocation, including supporting documentation such as meal counts and participant survey results;

¹ State/Grantee Agreement III, (V.) Audits, Records, Reports, and Inspections, (G).

² Older American Act, Title III, Part C – Nutrition Services, Subpart 3 – General Provisions, Administration on Aging, HHS, Reporting Requirements For Title III and VII, March 2004, and Indiana State Department of Health Food Codes.

³ Older American Act, Title III, Part C – Nutrition Services, Subpart 3 – General Provisions, Administration on Aging, HHS, Reporting Requirements For Title III and VII, March 2004, and Indiana State Department of Health Food Codes.

(3) a statement describing the impact of the proposed closure/relocation upon the surrounding congregate setting; and

(4) a summary of the AAA's efforts to provide information to meal site participants regarding transportation options to a relocated meal site or alternate meal site or making other arrangements for meal delivery.

(b) Congregate meal site participant must receive written and verbal notification 30 days prior to the closure or relocation of the meal site (unless an emergency situation exists). In addition, all meal site closures or relocations should be publicized using local media outlets and updating the area agency website.

(c) The AAA shall discuss and document transportation and/or meal options (such as home delivered meals) with those congregate meal site participants who will be displaced or have services suspended. If the displaced participants will be attending another meal site, the AAA is to ensure the displaced participants are welcomed to the new site (i.e., personal contact, open house, site activity or other action).¹

8006.2.1 MEAL SITE LOCATION

(a) The AAA is to ensure the meals are provided in congregate settings, including adult day care facilities and multigenerational meal sites;²

(b) The AAA is to ensure the congregate meal site must be in a location that is in close proximity to the majority of eligible older adults' residences as feasible.³

(c) Where feasible, the AAA is to encourage arrangements with schools and other facilities serving meals to children in order to promote intergenerational meal programs.⁴

(d) It is recommended that each congregate meal site meet minimum requirements related to the physical facility and equipment, including, but not limited to:

(1) access to a kitchen or approved work area, for the set-up and dispensing of meals. This includes all equipment necessary to maintain proper food temperatures. If used for the nutrition program, there shall be operating thermometers in the refrigerator and freezer. Approval of the area by the local health department is required;⁵

(2) separate sinks for hand washing and food service;

(3) equipment, including tables and chairs for the meals and other programs, which are sturdy and appropriate for older persons;

¹ **Revised 4/10/06**

² Older Americans Act (as amended in 2000), Part C-Nutrition Service, Subpart 1-Sec. 331(1).

³ Older Americans Act (as amended in 2000), Part C-Nutrition Services: Subpart 3-General Provisions, Sec.339(2), (E).

⁴ Older Americans Act (as amended in 2000), Part C-Nutrition Services: Subpart 3-General Provisions, Sec.339(2), (D).

⁵ Indiana State Department of Health, Retail Food Establishment Sanitation Requirement, Title 410 IAC 7-20, Effective April 29, 2000 to present

(4) fire extinguisher(s) in good working order; and

(5) readily accessible first aid kit.

(e) The Americans with Disabilities Act (ADA) requires certain public accommodations for persons with disabilities, including the following:

(1) visible directional and informational signs;

(2) telephone accessibility to staff;

(3) ramps and route of travel that does not require the use of stairs;

(4) all public spaces on an accessible route of travel;

(5) rest rooms which are accessible to the public, at least one rest room (either one for each sex, or unisex) fully accessible; and

(6) adequate space to accommodate persons with canes, walkers, wheelchairs, and other assistive devices.¹

(f) Congregate meal sites and satellite meal sites should comply with local and state health, fire, safety, building, zoning, and sanitation laws, ordinances, and codes. The nutrition service provider should maintain appropriate documentation.

(g) Congregate meal sites and satellite meal sites must be neat and clean, and have appropriate lighting and ventilation for participants.

(h) For information regarding the Americans with Disabilities Act requirements for Nutrition Services, see the cover page addendum of this manual. Also, see Public Law 101-336 and Title 42 USC Chapter 126, Section 12101.

8006. 2.2 MEAL SITE SERVICES

(a) The AAA is to ensure the meal site complies with applicable provisions of State or local laws regarding the safe and sanitary handling of food equipment, and supplies used in the storage, preparation, service, and delivery of meals to older individuals.²

(b) The AAA shall compile available information, with necessary supplementation, on courses of post-secondary education offered to older individuals with little or no tuition. The assurance shall include a commitment by the area agencies to make a summary of the information available to older individuals at congregate meal sites.³ This means a summary or listing of post-secondary educational courses that are provided at no fee or at a minimal fee, shall be made available to congregate meal site participants on a regular basis.

¹ Americans with Disabilities Act Checklist for Readily Achievable Barrier removal (August 1995) Checklist for Existing Facilities

² Older Americans Act (as amended in 2000), Part C-Nutrition Services: Subpart 3-General Provisions, Sec.339(2), (F).

³ Code of Federal Regulations 11/00, Title 45, Chapter XIII, Part 1321, Subpart D, Sec. 1321.17 (f)(11).

(c) Nutrition education services and other appropriate nutrition services for older individuals may be provided specifically at the congregate meal site.¹

8006.2.3 POSTINGS AT THE MEAL SITE

Meal site hours should be posted within the meal site and if allowed, posted on the outside exterior of the meal site room/building.

8006.2.4 HOME DELIVERED MEALS

- (a) Upon request, current menus should be provided to home delivered meal participants.
- (b) Home delivered meal participants are not charged any fee for the meals or related nutrition service.
- (c) The AAA shall encourage home delivered meal participants whose conditions improve to participate in the Congregate Nutrition Program.

8006.2.5 MEAL DELIVERY

The AAA is to encourage providers to enter into contracts that limit the amount of time meals must spend in transit before the meals are consumed.²

8006.3 MEAL SERVICE REQUIREMENTS

Requirements for meal services administered under the FSSA DA and the AAAs are contained in this section.

8006.3.1 MEAL FREQUENCY AND FORM

(a) The AAA is to ensure the following:

- (1) home delivered and congregate meals are provided 5 or more days a week (except in a rural area where such frequency is not feasible and a lesser frequency is approved by the Division of Aging)³ (See Section 2028 –*Direct Delivery of Services* - FSSA DA Operations Manual);
- (2) ensure the nutrition service provider provides the home delivered meal participant at least one hot, cold, frozen, dried, canned, or supplemental foods (with satisfactory

¹ Older Americans Act (as amended in 2000), Part C-Nutrition Services: Subpart 3-General Provisions, Section 331(3).

² Older Americans Act (as amended in 2000), Part C-Nutrition Services: Subpart 3-General Provisions, Section 339(2)(C).

³ Older Americans Act (as amended in 2000), Part C-Nutrition Service, Subpart 1 – **Congregate Nutrition Services, Sec. 331(l), and Subpart 2-Home Delivered Nutrition Services**

storage life) meal per day and any other appropriate meal per day that the AAA may elect the provider to provide; and¹

(3) ensure the nutrition service provider provides the congregate meal site participants at least one hot or other appropriate meal per day and any additional meals that the AAA may elect the provider to provide.²

8006.3.2 MEAL PLANNING REQUIREMENTS

(a) Meal Design;

(1) The AAA should provide flexibility to local nutrition providers in designing meals that are appealing to program participants.³

(b) Menu Development;

(1) The AAA is to ensure the provided meals must comply with the current Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture.⁴ (For specific Dietary Guidelines **For Americans**, see Appendix A: **Menu Standards**)

(2) The AAA is to ensure the meals provide:

(A) a minimum of 33 1/3% of the RDA as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, if the project provides one meal per day⁵; (For specific FSSA DA DRI requirements, see **Appendix A: Menu Standards**);

(B) a minimum of 66 2/3% of the allowances if the project provides two meals per day⁶; and

(C) 100 percent of the allowances if the project provides three meals per day⁷.

(3) The AAA shall ensure compliance with requirements listed above, by utilizing the services of a registered dietitian to review and verify through signature.

¹ Older Americans Act (as amended in 2000), Part C-Nutrition Service, Subpart 2-Home Delivered Nutrition Services, Sec. 336.

² Older Americans Act (as amended in 2000), Part C-Nutrition Service, Subpart 1 - **Congregate Nutrition Services, Sec. 331(I)**.

³ Older Americans Act (as amended in 2000), Part C-Nutrition Service, Subpart 3, Sec. 339, Nutrition, (2), (B).

⁴ Older Americans Act (as amended in 2000), Part C-Nutrition Service, Subpart 3-General Provisions, Sec. 339, Nutrition, (2), (A), (i).

⁵ Older Americans Act (as amended in 2000), Part C-Nutrition Service, Subpart 3-General Provisions, Sec. 339, Nutrition, (2), (A), (ii), (I).

⁶ Older Americans Act (as amended in 2000), Part C-Nutrition Service, Subpart 3-General Provisions, Sec. 339, Nutrition, (2), (A), (ii), (II).

⁷ Older Americans Act (as amended in 2000), Part C-Nutrition Service, Subpart 3-General Provisions, Sec. 339, Nutrition, (2), (A), (ii), (III).

8006.4 EMERGENCY MEALS

The AAA may provide meals during an emergency.

8006.5 VOLUNTEER AND DISABLED INDIVIDUAL MEALS

(a) The AAA shall have established procedures that allow nutrition project administrators the option to offer a meal, on the same basis as meals provided to participating older individuals, to individuals providing voluntary services during the meal hours, and individuals with disabilities who reside in a non-institutional household with and accompany a person eligible for congregate meals under this part shall be provided a meal on the same basis that meals are provided to volunteers.¹

8006.6 RESTAURANT VOUCHER MEALS

(a) The AAA may choose to offer participants the opportunity to receive individual meals using an established restaurant voucher system at a restaurant in which the AAA has a valid contract. The individual meals, offered by the restaurant must adhere to the requirements found in **Section 8006.32 - Meal Planning Requirements.**

8006.7 REQUESTED INFORMATION

(a) Information regarding the following may be requested by FSSA DA staff:

- (1) completed nutrition education activities (if applicable);
- (2) completed AAA, nutrition service provider trainings (if applicable);
- (3) changes in any AAA, nutrition service providers/caterer policies and procedures;
- (4) suggested donation rate and average meal donation for the previous month;
- (5) meal site directory updates; and
- (6) contract updates.

(b) The AAA or nutrition services provider shall respond appropriately and in a timely manner to any FSSA DA staff requests for information.²

¹ Older Americans Act (as amended in 2000), Part C-Nutrition Services: Subpart 3-General Provisions, Section 339(2)(H), and Code of Federal Regulations 11/00, Title 45, Chapter XIII, Part 1321, Subpart D, Sec. 1321.17 (f)(11).

² Added 4/10/06

8006.8 NUTRITION SCREENS

CHART 21

Older Americans Act, 339 (2)(J) A State that establishes and operates a nutrition project shall ensure that the project provide for nutrition screening and, where appropriate, for nutrition education and counseling.

(a) The AAA is to provide for nutrition screening and, where appropriate for nutrition education and counseling.¹

(b) For NAPIS reporting, the assessment tool **to be used** is the *Determine Your Nutritional Health Checklist* published by the Nutrition Screening Initiative.²

(c) It is recommended each AAA establish written policies and **procedures relating to the individual** responsible for administering, evaluating, and providing appropriate intervention related to the nutrition assessment findings. Documentation is required.

8006.9 NUTRITION EDUCATION ACTIVITIES

(a) Nutrition education services and other appropriate nutrition services for older adults may be included as part of Nutrition Services.³

(b) For purposes of NAPIS reporting, nutrition education should be reported as one session per participant. The education may be provided in a group or individual setting overseen by a dietitian or individual of comparable expertise.⁴

(c) The AAA may be asked to help plan and participate in nutrition activities throughout the program year.

8006.10 NUTRITION COUNSELING

(a) Individualized counseling should be offered to all individuals who are at nutritional risk, especially to those participants who are assessed as having a high nutritional risk.⁵

(b) For purposes of NAPIS reporting, AAA provided nutrition counseling should be reported as 1 session per participant. The AAA provided nutrition counseling shall be a direct one-on-one session conducted by a registered dietitian in an individual setting. The AAA may refer an individual at risk participant to a qualified health professional, in lieu of providing the participant with direct nutrition counseling. This referral must be documented and may not be reported in NAPIS as meeting a nutrition counseling session.

¹ Older Americans Act (as amended in 2000), Part C-Nutrition Services: Subpart 3-General Provisions, Section 339(2)(J).

² Administration on Aging, HHS, Reporting Requirements For Title III and VII, March 2004.

³ Older Americans Act (as amended in 2000), Part C-Nutrition Services: Subpart 3-General Provisions, Section 331(3).

⁴ Administration on Aging, HHS, Reporting Requirements For Title III and VII, March 2004.

⁵ Administration on Aging, HHS, Reporting Requirements For Title III and VII, March 2004.

8006.11 NATIONAL PROGRAM INFORMATION SYSTEM (NAPIS)

(a) All nutrition services provided under Title III must be counted and reported to the Division of Aging. These services include:

- (1) both congregate and home delivered meals served;
- (2) individual nutrition counseling; and
- (3) group and individual nutrition education.

(b) These services do not include meals funded by the Aged and Disabled Medicaid Waiver, SSBG or any program where means testing occurs.

(c) Information regarding NAPIS reporting requirements can be found in Section 2037–*Required Reports from the Division of Aging*.

8006.11.1 UNITS OF SERVICE (FOR NAPIS REPORTING)¹

(a) For purposes of NAPIS reporting, units of service must be reported for each participant receiving the service. A unit of service is defined as follows:

- (1) Congregate Meal = 1 meal
- (2) Home Delivered Meal = 1 meal
- (3) Nutrition Counseling = 1 session per participant
- (4) Nutrition Education (in an individual or group setting) = 1 session per participant/group

8006.12 PROVISION OF NUTRITION SERVICES

(a) The AAA shall subcontract all direct services provided under Title III of the Older Americans Act and IC 12-10-10, unless the grantee has received a waiver from the Division of Aging authorizing it to provide direct services under Title III of the Older Americans Act and/or IC 12-10-10.²

8006.12.1 AAA AND PROVIDER MONITORING

(a) The AAA should have written policies and procedures related to the monitoring of their contracted nutrition service providers and caterers.

¹ Administration on Aging, HHS, Reporting Requirements For Title III and VII, March 2004.

² See the Section **2006** – *Direct Delivery of Services* for more information.

8007 SENIORS FARMER'S MARKET NUTRITION PROGRAM (SFMNP)

(a) The Indiana State Department of Health administers the Senior Farmer's Market Nutrition Program grant. The grant provides for no administrative funding and participation in the program by the AAA is strictly voluntary.

(b) The Senior Farmers' Market Nutrition Program (SFMNP) awards grants provides low-income seniors with coupons that can be exchanged for eligible foods at farmers' markets, roadside stands, and community supported agriculture programs.

(c) The grant funds may be used only to support the costs of the foods that are provided under the SFMNP.

8007.1 ELIGIBILITY FOR SFMNP

Low-income seniors, generally defined as individuals who are at least 60 years old and who have household incomes of not more than 185% of the federal poverty income guidelines (published each year by the Department of Health and Human Services), are the targeted recipients of SFMNP benefits.

For more information, contact the FSSA DA nutrition coordinator or other FSSA DA designated staff.

Also, information can be found at the following:

State/Grantee Agreement III, (V.) Audits, Records, Reports, and Inspections

HHS, Reporting Requirements For Title III and VII, March 2004, and Indiana State Department of Health Food Codes.

Indiana State Department of Health, Retail Food Establishment Sanitation Requirements, **Title 410 IAC 7-24, Effective November 13, 2004 to present.**

Code of Federal Regulations 11/00, Title 45, Chapter XIII, Part 1321, Subpart D, Section 1321.17, 1321.67

Older Americans Act (as amended in 2000), Part C-Nutrition Service, Subpart 2-**Home Delivered Nutrition Services, Section 307, 315, 331, 336, 339**

United States Code, 42 USC, Chapter 35, Sections 3016, 3020e, 3023, 3024, 3028, 3030a, 3030c, 3030c-3, 3030d, 3030e, 3030f, 3030g, and 3030g 21 and 22

SECTION 9

9000 SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP)

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9000 SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP)

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Senior Community Service Employment Program, Final Rule, April 9, 2004. All grantees must follow the BAIHS Operations Manual policy and procedures and Code of Regulations, 20 CFR Part 641

The Senior Community Service Employment Program (SCSEP) promotes useful part-time employment opportunities in community service activities for unemployed low income persons who are 55 years of age or older and who have poor employment prospects; to foster individual economic self-sufficiency and to increase the number of older persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors.

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(29 U.S.C. 2864(c)) Section 134(c) of the Workforce Investment Act of 1998

Older Americans Act

Section 102(1)

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Sections 501, 502, 504, 509, 510, 511 and 516-Subgrantees, Host Agencies and Participants

Sections 503, 505, 506, 507, 508, 512, 513, 514 and 515

9001 FUNDING SOURCES

This program is funded through the Title V federal grant, Older Hoosier Account funds, and local funds. Unlike other titles of the Older Americans Act, Title V is administered by the Department of Labor (DOL).

9002 RECRUITMENT AND SELECTION OF ELIGIBLE INDIVIDUALS

Subgrantees (Area Agencies on Aging) must develop methods of recruitment and selection that assure the maximum number of eligible individuals have an opportunity to participate in the SCSEP.

9003 INITIAL ELIGIBILITY REQUIREMENTS

(a) Initial eligibility is determined at the time an individual applies to participate in the SCSEP. Once an individual becomes a participant, the subgrantee (AAA) is responsible for verifying continued income eligibility at least once every 12 months. Subgrantees must also verify an individual's eligibility as circumstances require.

(b) An individual with a disability may be treated as a “family of one” for income eligibility determination purposes.

(c) Subgrantees must list all community service opportunities with the State Workforce Agency and all appropriate local offices and must use the One-Stop Delivery System in the recruitment and selection of eligible individuals.¹

9004 BASIC ELIGIBILITY REQUIREMENTS FOR SCSEP

To be eligible for the SCSEP, participants must meet the following basic requirements:

- (1) Be at least 55 years old; and
- (2) Be a member of a family with an annual income that is not more than 125 % of the family income levels prepared by the Department of Health and Human Services and approved by the Office of Management and Budget (OMB).

9004.1 INCOME INCLUSIONS AND EXCLUSIONS

(a) The types of income that are included in participant eligibility determination are as follows:

- (1) Earnings (gross wages, net income from farm self-employment and non-farm self-employment),
- (2) Unemployment compensation,
- (3) Net Social Security less the Medicare Deductions^{2 and 3}
- (4) Veteran's payments,
- (5) Survivor benefits,
- (6) Pension or retirement income,
- (7) Interest income,
- (8) Dividends,
- (9) Rents,
- (10) Royalties, Estates and Trusts,
- (11) Educational assistance (Pell Grants, etc.),
- (12) Alimony, and
- (13) Financial assistance from outside of the households.

(b) The types of income that are excluded in participant eligibility determination are as follows:

- (1) Capital gains received;
- (2) Withdrawals of bank deposits;
- (3) Money borrowed;
- (4) Tax refunds;
- (5) One time gifts;
- (6) Lump-sum inheritances or insurance payments;
- (7) Supplemental Security Income;
- (8) Public assistance or welfare payments;
- (9) Disability benefits;

¹ Older Americans Act, Section 502(b)(1)(H)

² Training and Employment Guidance Letter, No. 13-04

³ Added 5-13-05

- (10) Child support;
- (11) Worker's compensation; and
- (12) First \$2,000 of certain per capita fund distributions to Indians.¹

(c) The prior practice of excluding the first \$500 of an individual's income for eligibility purposes will no longer be permitted, either for current participants or new applicants.

9004.2 PREFERENCE CRITERIA AND ENROLLMENT PRIORITIES

(a) Subgrantees(AAA) must apply the preference criteria, to the extent feasible, when selecting individuals within a priority group, unless the subgrantee determines, based on an assessment of circumstances and available community service employment opportunities, that a non-preference individual should receive services over a preference individual.

(b) Eligible individuals who are not employed in any project funded under Title V shall not be considered to be Federal employees.²

(c) The subgrantee (AAAs) may be asked to provide evidence that it is adhering to the enrollment priorities and preferences.

9004.2.1 DEFINITION OF A VETERAN AND DEFINITION OF THE SPOUSE OF A VETERAN

(a) For eligibility purposes, a veteran must have received an honorable discharge from one of the U. S. armed services and must submit Veteran FORM DD-214 as verification.

(b) For eligibility purposes, to be considered as a qualified spouse, an individual must be one of the following:

- (1) the spouse of a veteran who died of a service-connected disability;
- (2) the spouse of a member of the Armed Forces on active duty, who has been listed for a total of more than 90 days as missing in action, captured in the line of duty by a hostile force, or forcibly detained by a foreign government or power;
- (3) the spouse of any veteran who has a total disability resulting from a service-connected disability; or
- (4) the spouse of any veteran who died while a disability so evaluated was in existence, who meets program eligibility requirements under Section 2 of the Jobs for Veterans Act, Public Law 107-288 (2002).³

¹ Older Worker Bulletin Number 04-05

² Older Americans Act, Section 504(a)

³ U.S. Department of Labor (Training and Employment Guidance Letter -TEGL)

9004.2.2 DEFINITION OF SPECIAL CONSIDERATION CRITERIA

To meet the special consideration criteria, an individual must be one of the following:

- (1) an individual who has income below the poverty level;
- (2) an individual who has poor employment prospects;
- (3) an individual who is an eligible minority;
- (4) an individual who has limited English speaking ability; or
- (5) an American Indian.

CHART 24 ENROLLMENT PRIORITIES

INDIVIDUALS SHALL BE PRIORITIZED IN THE FOLLOWING SEQUENCE:

- (1) An individual who meets basic eligibility requirements is age 60 or older and is a veteran or qualified spouse who MEETS special consideration criteria.
- (2) An individual who meets basic eligibility requirements, is age 60 or older and is a veteran or qualified spouse who DOES NOT meet special consideration criteria.
- (3) An individual who meets basic eligibility requirements, is age 60 or older and is a non-veteran who meets special consideration criteria.
- (4) An individual who meets basic eligibility requirements, is age 60 or older and is a non-veteran who DOES NOT meet special consideration criteria.
- (5) An individual who meets basic eligibility requirements, is between the ages of 55-59 and is a veteran or qualified spouse who MEETS special consideration criteria.
- (6) An individual who meets basic eligibility requirements is between the ages of 55-59 and is a veteran or qualified spouse who DOES NOT meet special consideration criteria.
- (7) An individual who meets basic eligibility requirements is between the ages of 55-59 and is a non-veteran who MEETS special consideration criteria.
- (8) An individual who meets basic eligibility requirements is between the ages of 55-59 and is a non-veteran who DOES NOT meet special consideration criteria.

9005 SERVICES AND RESPONSIBILITIES OF THE SUBGRANTEE (AAA)

(a) Subgrantees (AAAs) are responsible for providing participants with the following services:

- (1) orientation, including information on project goals and objectives, for individuals selected for participation in the SCSEP;
- (2) community service assignments;
- (3) training opportunities;
- (4) available supportive services;
- (5) availability of a free physical examination (if physical is waived, there must be documentation);

(6) notification and explanation of participant rights and responsibilities and permitted and prohibited political activities, including the posting of a notice at a project and will make available to each participant a written explanation, clarifying the law with respect to allowable and unallowable political activities;

(7) assessment of the participant's work history, skills and interests, talents, physical capabilities, aptitudes, needs for supportive services, occupational preferences, training needs, potential for performing community service assignments, and potential for transition to unsubsidized employment as necessary, no less frequently that 2 times during a 12 month period;

(8) Using the information gathered during the assessment to develop the Individual Employment Plan (IEP), a plan with the ultimate goal of unsubsidized employment will be developed with a minimum of three goals and objectives and an appropriate sequence of service for the participant and updated no less than twice during a twelve month period. ¹

(9) placing participants in appropriate community service activities in the community in which they reside, or in a nearby community; ²

(10) providing or arranging for necessary training specific to the participants' community service assignments;³

(11) assisting participants in arranging for other training identified in their IEPs;⁴

(12) assisting participants in arranging for needed supportive services identified in their IEPs;⁵

(13) providing participants with wages and fringe benefits for time spent working in the assigned community service employment activity;⁶

(14) ensuring that participants have safe and healthy working conditions at their community service worksites **by using the Health and Safety checklist for Host Agencies which will be placed either in the participant's file or with the Host Agency Agreement;** ^{7 and 8}

(15) verifying participant income eligibility at least once every 12 months;

(16) assisting participants in obtaining unsubsidized employment, including providing or arranging for employment counseling in support of their IEPs;

¹ **Added 2/03/06**

² Older Americans Act, Section, 502(b)(1)(B)

³ Older Americans Act, Section 502(b)(1)(I)

⁴ Older Americans Act, Section 502(b)(1)(I)

⁵ Older Americans Act, Section 502(b)(1)(N)

⁶ Older Americans Act, Section 502(b)(1)(I)

⁷ **Added 2/03/06**

⁸ Older Americans Act, Section 502(b)(1)(J)

- (17) providing appropriate services for participants **(who have registered with the One-Stop office)**¹ through the One-Stop Delivery System established under WIA;²
- (18) providing counseling on participant's progress in meeting the goals and objectives identified in their IEPs, and in meeting their supportive service needs;³
- (19) following-up with participants placed into unsubsidized employment during the first 6 months of placement to make certain that participants receive any follow-up services they may need to ensure successful placements;
- (20) following-up at 6 months with participants who are placed in unsubsidized employment to determine whether they are still employed; and ⁴
- (21) providing service to participants according to administrative guidelines that may be issued by the DOL. ⁵
- (b) All management reports shall be submitted timely by the subgrantee.
- (c) Subgrantees (AAAs) may provide skill training that is realistic and consistent with the participant's IEP, and that makes the most effective use of the participant's skills and talents. This does not apply to training provided as part of a community service assignment.
- (d) Training may be provided before or after placement in a community service activity.
- (e) Training may be in the form of lectures, seminars, classroom instruction, individual instruction, on-the-job experiences, or other arrangements, including but not limited to, arrangements with other workforce development programs such as WIA.⁶
- (f) Subgrantees (AAAs) are encouraged to place a major emphasis on training available through on-the-job experience.
- (g) Subgrantees (AAAs) are encouraged to obtain training through locally available resources, including host agencies, at no cost or reduced cost to the SCSEP.
- (h) Subgrantees (AAAs) may pay reasonable costs for instructors, classroom rental, training supplies and materials, equipment, tuition, and other costs of training. Participants may be paid wages while in training. Subgrantees may pay for costs associated with travel and room and board necessary to participate in training.
- (i) Nothing in the SCSEP prevents or limits participants from engaging in self-development training available through other sources, during hours when not assigned to community service activities.

¹ **Added 4/10/06**

² Older Americans Act, Section 502(b)(1)(O)

³ Older Americans Act, Section 502(b)(1)(N)(iii))

⁴ Older Americans Act, Section 513(c)(2)(B)

⁵ Older Americans Act, Section 502(c)(6)(A)(i)

⁶ Older Americans Act, Section 502(c)(6)(A)(ii))

(j) Subgrantees (AAAs) may provide or arrange for supportive services to assist participants in successfully participating in projects. Supportive services include, but are not limited to:

- (1) payment of reasonable costs of transportation;
- (2) health care and medical services;
- (3) special job-related or personal counseling;
- (4) incidentals such as work shoes, badges, uniforms, eyeglasses, and tools;
- (5) child and adult care;
- (6) temporary shelter; and
- (7) follow-up services.¹

(k) To the extent practicable, the subgrantee should provide for the payment of these expenses from other resources.

(l) Subgrantees have the responsibility to place participants in unsubsidized employment.

(m) Subgrantees also have the responsibility (once participants have been placed in unsubsidized employment) to contact placed participants during the first 6 months to determine:

- (1) if participants have the necessary supportive services to remain in the job;
- (2) if the participant have been retained by the employer or use wage records to verify continued employment;²
- (3) follow-up requirements under the Performance Standards.

(n) Each project funded under Title V must result in an increase in employment opportunities in addition to those that would otherwise be available.

(o) Subgrantees cannot place participants directly into unsubsidized employment. Subgrantees are encouraged to refer individuals who may be placed directly in an unsubsidized employment position to an employment provider, including the One-Stop for job placement assistance under WIA. The DOL encourages grantees to work closely with participants to develop an IEP and assessment to determine what training the individual may need. The DOL encourages subgrantees to work with those participants who are the most difficult to place to provide them with the services necessary to develop the skills needed for job placement.

¹ Older Americans Act, Section 502(c)(6)(A)(iv)

² Older Americans Act, Section 513(c)(2)(B)

(p) Subgrantees (AAAs) and host agencies are required to comply with the non-discrimination provisions codified in the DOL's regulations at 29 CFR Part 37, if the recipient:

(1) is a One Stop partner listed in Section 121(b) of WIA.¹

(2) operates programs and activities that are part of the One-Stop Delivery System established under the Workforce Investment Act.

(q) Maintenance of effort requirements as it applies to the use of SCSEP funds means the employment of a participant funded under Title V of the OAA is permissible only in addition to employment that would otherwise be funded by the subgrantee and the host agency without assistance under the OAA.²

(r) Subgrantees (AAAs) must provide informational materials relating to age discrimination and/ or their rights under the Age Discrimination in Employment Act of 1975 that are distributed to subgrantees by the DOL pursuant to Section 503(b) (3) of the OAA.

(s) Subgrantees are required to display all mandated posters and policies as required by the DOL.

(t) Questions about or complaints alleging a violation of the nondiscrimination requirements cited in this section may be directed or mailed to:

Director, Civil Rights Center,
U.S. Department of Labor, Room N-4123
200 Constitution Avenue, NW., Washington, DC 20210

9005.1 POLICIES GOVERNING POLITICAL PATRONAGE

(a) The policies governing political patronage are as follows:

(1) A subgrantee must not select, reject, promote, or terminate an individual based on political services provided by the individual or on the individual's political affiliations or beliefs.

(2) In addition, certain subgrantees of SCSEP funds are required to comply with the Workforce Investment Act nondiscrimination regulations in 29 CFR part 37. These regulations prohibit discrimination on the basis of political affiliation or belief.

(3) A subgrantee must not provide funds to any sub-subgrantee or other entity based on political affiliation.

¹ See Section 90005.2

² Older Americans Act, Section 502(b)(1)(F)

(4) Policies governing political activities are:

(A) No project under Title V of the OAA may involve political activities. SCSEP recipients must ensure compliance with the requirements and prohibitions involving political activities.

(B) State and local employees involved in the administration of SCSEP activities may not engage in political activities prohibited under the Hatch Act (5 U.S.C. Chapter 15), including:

(i) seeking partisan elective office.

(ii) using official authority or influence for the purpose of affecting elections, nominations for office, or fund-raising for political purposes.¹

(b) SCSEP recipients must provide all persons associated with SCSEP activities with a written explanation of allowable and unallowable political activities under the Hatch Act. A notice explaining these allowable and unallowable political activities must be posted in every workplace in which SCSEP activities are conducted. The DOL will provide the form and content of the notice and explanatory material by administrative issuance.²

(c) SCSEP recipients must ensure that:

(1) no SCSEP participants or staff persons engage in partisan or nonpartisan political activities during hours for which they are being paid with SCSEP funds.

(2) no participants or staff persons engage in partisan political activities in which such participants or staff persons represent themselves as spokespersons for the SCSEP program.

(A) No participants are employed or out-stationed in the offices of a Member of Congress, a State or local legislator, or on the staff of any legislative committee.

(B) No participants are employed or out-stationed in the immediate offices of any elected chief executive officer of a State or unit of general government, except that units of local government may serve as host agencies for participants, provided that their assignments are non-political.

(C) While assignments may technically place participants in such offices, such assignments actually must be concerned with program and service activities and not in any way involved in political functions.

(3) No participants are assigned to perform political activities in the offices of other elected officials. Placement of participants in such offices in non-political

¹ United States Code, 5 USC 1502

² Older Americans Act, Section 2 (b) (I)(P)

assignments is permissible. However, Units of Local Government may serve as host agencies for participants, provided that their assignments are non-political and while assignments may technically place participants in such offices, such assignments actually must be concerned with the program and service activities and not in any way involved in political functions.

(4) SCSEP subgrantees develop safeguards to ensure that participants placed in these assignments are not involved in political activities. These safeguards are subject to review and monitoring by FSSA DA and by the DOL.

(5) The subgrantees must ensure that SCSEP funds are not used in any way to assist, promote, or deter union organizing.

9005.2 NEPOTISM

(a) The policies governing nepotism are:

(1) SCSEP subgrantees must ensure that no subgrantee hires, and no host agency serves as a worksite for, a person who works in an SCSEP community service position if a member of that person's immediate family is engaged in a decision-making capacity (whether compensated or not) for that subgrantee or host agency. The DOL may exempt this requirement from worksites on Native American reservations and in rural areas provided that adequate justification can be documented, such as that no other persons are eligible and available for participation in the program.

(2) For purposes of the definition of nepotism "Immediate family" means wife, husband, son, daughter, mother, father, brother, sister, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild.

(b) To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, SCSEP subgrantees must ensure that the more restrictive requirement is followed.

9005.3 ONE STOP DELIVERY SYSTEM

(a) The SCSEP is a required partner under the Workforce Investment Act (WIA). As such, it is a part of the One-Stop Delivery System. Subgrantees are required to follow all applicable rules under WIA and its regulations. (WIA Section 121(b) (1) (B)(vi), (29 USC 2841(b)(1)(B)(vi) and the 29 CFR, Part 662, subpart B.

(b) Title V resources may only be used to provide Title V services to Title V-eligible individuals. The Workforce Investment Act (WIA) creates a seamless service delivery system for individuals seeking workforce development services by linking the One-Stop partners in the One-Stop Delivery System. Although the overall effect is to provide universal access to core services, resources may only be used to provide services that are authorized and provided under the SCSEP to eligible individuals. Title V funds can

be used to pay wages to SCSEP participants receiving intensive and training services under Title I of WIA provided that the SCSEP participants are functioning in a community service assignment. All other individuals who are in need of the services provided under the SCSEP, but who do not meet the eligibility criteria to enroll in the SCSEP, should be referred to or enrolled in WIA or other appropriate partner programs. (WIA SECTION 121(b)(1)). These arrangements should be negotiated in the Memorandum of Understanding (MOU) between the subgrantee and the Local Board.

(c) In addition to providing core services, subgrantees must make arrangements through the One-Stop Delivery System to provide eligible and ineligible individuals with access to other activities and programs carried out by other One-Stop partners.

(d) Section 502(b)(4) of the OAA provides that an assessment or IEP completed by the SCSEP satisfies any condition for an assessment, service strategy, or IEP completed at the One-Stop and vice-versa. These reciprocal arrangements and the contents of the IEP and WIA IEP should be negotiated in the MOU.¹

(1) Participants who have been assessed through an IEP have received an intensive service according to 20 CFR 663.240(a) of the WIA regulations. participants, who seek unsubsidized employment as part of their IEP, may require training to meet their objectives. The grantee/subgrantee, the host agency, the WIA program, or another One-Stop partner may provide training as appropriate and as negotiated in the MOU.

(2) The SCSEP provides opportunities for eligible individuals to engage in part-time community service activities for which they are compensated. These assignments are analogous to work experience activities or intensive service under 20 CFR 663.200 of the WIA regulations.

(3) Participants may be paid wages while receiving intensive or training services provided that the participant is functioning in a community service assignment.

(e) WIA Intensive and Training services. SCSEP participants are not automatically eligible for intensive and training services under Title I of WIA, Local Boards may deem SCSEP participants, either individually or as a group, as satisfying the requirements for receiving adult intensive and training services under Title I of WIA.

9005.4 TERMINATION OF A PARTICIPANT

(a) The subgrantee (AAA) must give the participant written notification of termination, within 30 days of the determination, either through mail or in person, if a participant is found ineligible for the SCSEP because of an increase in the participant's family income

(b) A participant that is found ineligible because of providing false information shall be terminated immediately. Written notification of the reason for the immediate termination shall be given, either through mail or in person, to the participant. Termination will be effective as of the date of the written notification.

¹ Older Americans Act, Section 502(b) (4)

(c) If, at any time, the subgrantee determines that it incorrectly determined a participant to be eligible for the program through no fault of the participant, the subgrantee must give the participant immediate written notice explaining the reason(s) for ineligibility and must terminate the participant 30 days after the participant receives the notice.

(d) Subgrantees (AAAs) must refer terminated participants to the services provided under the One-Stop Delivery System or other appropriate partner program. Terminated participants may file a grievance according to the **FSSA DA** appeals procedures found in Section 9011.¹

(e) Subgrantees (AAAs) may terminate a participant for cause (a justified reason). In doing so, the subgrantee must inform the participant, in writing, of the reason(s) for termination. Terminations for cause must be discussed with participants and provide each participant a written copy of its policies for terminating a participant for cause or otherwise at the time of enrollment.

(f) When a subgrantee (AAAs) makes an unfavorable determination of enrollment eligibility, the subgrantee must give the individual a reason for termination and, when feasible, should refer the individual to other potential sources of assistance, such as the One-Stop Delivery System.

(g) Any termination must be consistent with administrative guidelines issued by the DOL, and the termination must be subject to the applicable grievance procedures as described in Section 9011.

(h) Participants may not be terminated from the program solely on the basis of their age. Subgrantees may not impose an upper age limit for participation in the SCSEP.

(i) Individual Employment Plan-Related Terminations

(1) The project sponsor will have a participant sign a 30 day written corrective action agreement following an incident where a participant has been warned to follow action steps depicted in their IEP. The following reasons may be cause to start the corrective action agreement:

(A) refusal to accept an initial or alternative community service assignment;

(B) refusal to register at the WorkOne center;

(C) refusal to improve personal habits or appearance;

(D) refusal to participate in workshops, training, OJT;

(E) refusal to job search;

(F) refusal to transition into unsubsidized employment; or

¹ Also see the **FSSA DA** Operations Manual, Section 4, Appeals and Hearings

(G) other action steps as identified in the participant's IEP.

(2) **After three infractions of the seven reasons for an IEP Related Termination (which would include failure to follow the signed corrective action plan)**¹ and if the participant does not follow the corrective action agreement, and there are no extenuating circumstances that would hinder the participant from moving to unsubsidized employment, the participant will be given a termination letter that states the right to appeal and cites appropriate time frames and the name of the person whom an appeal may be made. This letter becomes part of the participant's personnel record.

(3) Participants who have received IEP terminations will be referred to the WorkOne centers.²

9005.4.1 IEP Related Termination (Not Appropriate)

(a) An IEP Related Termination would not be appropriate when:

- (1) occurrences are not within the control of the participant (such as transportation to training or unsubsidized employment is unavailable);**
- (2) death of a closely related persons or partner impacts the situation;**
- (3) training or unsubsidized employment places undue hardship on the participants that exceed those of the community service assignment; or**
- (4) other related reasons (to be considered on a case by case basis).³**

9005.5 WAGES

(a) Subgrantees (AAAs) must pay participants the highest applicable minimum wage for time spent in orientation, training required by the subgrantee, and work in community service assignments. The highest applicable minimum wage is either the minimum wage applicable under the Fair Labor Standards Act of 1938; the State or local minimum wage for the most nearly comparable covered employment; or the prevailing rate of pay for persons employed in similar public occupations by the same employer.

(b) If a subgrantee requests a waiver to pay above the current state minimum wage (unless Congress approves a new minimum wage rate), the waiver will only be approved based on the following three criteria:

- (1) The subgrantee must provide documentation containing local market information and economic statistics including the prevailing wage market of comparable employment of the subgrantee's local economic climate that prevents the subgrantee from recruiting eligible participants.**

¹ Added 4/10/06

² Added 7/01/05

³ Added 4/10/06

(2) The subgrantee must provide studies on the effect of minimum wage on the recruitment and provide a recruitment plan explaining how a higher wage rate would allow the subgrantee to recruit and place participants into unsubsidized employment .

(3) if the subgrantee is paying a higher wage to participants, the subgrantee must explain why this higher wage is not a barrier to the participant exiting into unsubsidized employment.

(4) if the subgrantee has not met the unsubsidized employment goal for two or more program years, the subgrantee will not be allowed to pay higher wage to participants and must return the participants to the state's minimum wage rate.¹

9005.6 FRINGE BENEFITS

(a) Allowable fringe benefit costs for Subgrantees may include the following:

(1) holidays;

(2) social security; and

(3) any other fringe benefits approved in the grant agreement (submitted by the **FSSA DA** to the DOL) and permitted by the appropriate Federal cost principles found in OMB Circulars A-87 and A-122, except for retirement costs.

(b) Except for retirement benefits and unemployment compensation, subgrantees must ensure that participants receive all fringe benefits required by law.

(c) Subgrantees (AAAs) must provide fringe benefits uniformly to all participants within a project or subproject, unless the DOL agrees to waive this provision due to a determination that such a waiver is in the best interests of applicants, participants, and project administration.

(d) When participants are not covered by the State workers' compensation law, the subgrantee must provide participants with workers' compensation benefits equal to those provided by law for covered employment.

(e) Subgrantees may not use grant funds to provide contributions into a retirement system or plan.

(f) Unless required by law, subgrantees may not pay the cost of unemployment insurance for participants.

¹ United States Code, 20 USC 641.565 - Added 4/10/06

9005.7 PARTICIPANT ACTIVITIES NOT ALLOWED

(a) Lobbying requirements apply to the use of SCSEP funds. SCSEP recipients and subrecipients must comply with the restrictions on lobbying codified in the DOL's regulations.¹

(b) Each project funded under Title V must not result in:

(1) the displacement of currently employed workers, including partial displacement such as a reduction in hours of non-overtime work, wages, or employment benefits.

(2) impairment of existing contracts for service or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.

(3) the substitution of SCSEP-funded positions for existing federally assisted jobs.

(4) the employment or continuance of the employment of any participant to perform work that is the same or substantially the same as that performed by any other person who is on layoff.²

9006 THE FSSA DA POLICY AND PROCEDURES REGARDING SCSEP

The FSSA DA will develop, maintain, and seek to enhance a statewide senior community services employment program, in coordination with subgrantees that meets all requirements of the Older Americans Act. The FSSA DA will enter into contractual agreements with subgrantees. However, in Indiana, 2 subgrantees have contracts with Experience Works (sub-subgrantees), a national grantee operating in Indiana to deliver the SCSEP.

9006.1 THE FSSA DA COORDINATOR

The FSSA DA shall appoint a program coordinator who shall:

(1) monitor subgrantee's programs for contractual and programmatic compliance in accordance with established program regulations from the DOL.

(2) provide ongoing training and technical assistance to subgrantee program coordinators.

(3) coordinate training to subgrantee's program coordinators that includes the Indiana Department of Workforce Development personnel and Title V National

¹ See Code of Federal Regulations, 29 CFR, Part 93.

² Older Americans Act, Section 502(b)(1)(G)

grantee representatives.

(4) monitor subgrantee's expenditures to assure full utilization of funding.

(5) provide coordination and interaction with the Department of Workforce Development and all Title V National grantees in Indiana.

(6) host an annual roundtable inviting the SCSEP partners who include but are not limited to grantees, subgrantees, National grantees operating in Indiana, the Indiana Department of Workforce Development, the local and State boards. The purpose of the SCSEP Roundtable is to develop and plan the State Plan for Indiana SCSEP.

(7) assure that subgrantees are meeting all of the requirements listed in Section 9007.

(8) periodically monitor the program for compliance with required common and performance measures as established by the DOL, and the **FSSA DA**.

9007 HOST AGENCIES

(a) Organizations eligible to act as host agencies are public and private nonprofits organizations exempt from taxation under the provision of Section 501(c)(3) of the Internal Revenue Code of 1986. Host agencies will employ eligible individuals in service related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation.

(b) Units of local government may serve as host agencies for participants, provided that their assignments are non-political.

9007.1 SUBGRANTEES (AAAs) POLICY AND PROCEDURES REGARDING HOST AGENCIES

Subgrantees shall enter into an agreement with a host agency defining the following:

(1) Provide adequate supervision on a daily basis.

(2) Provide orientation and the necessary training concerning the work site, its activities, and the participants' daily activities.

(3) Assure that the subgrantees and the participants have a current and dated copy of his/her job description and to upgrade each job description as job functions change.

(4) Provide safe and sanitary work conditions, any necessary employee liability coverage, and compliance with the Americans with Disabilities Act. **The Host**

Agency will be subjected to the Health and Safety Checklist.¹

(5) Not discriminate on the basis of race, color, religion, sex, national origin, disability, age, political affiliation, or ancestry.

(6) Provide the grantee with time and attendance records, activity reports, annual evaluations, and accurate program budget records, when requested, on a timely basis.

(7) Assure that participants work only the total number of hours authorized by the subgrantee. Participants cannot receive stipends from the host agency above the SCSEP wages they are receiving from the subgrantee. Additionally, participants cannot volunteer at the host agency for the same community service assignment that they are receiving wages from the subgrantee.

(8) Make no change in a participant's work schedule, job duties, supervisor, place of work, or status with the agency without written notification/approval of the grantee.

(9) The maximum length of time that a participant may remain in the same job assignment will be determined by the IEP.²

(10) Consider participants for all job openings for which the participants qualify and to employ the participants in their current community service assignment (or a similar one) should funds become available.

(11) Recognize that, unless non-Title V funding becomes available, the position occupied by the participants are to be considered temporary and must actively support (the 24 month rotation period occurs) the participants transfer to another work site that can provide the participants with new or upgraded job skills.

(12) Provide to participants the same consideration, support, and treatment extended to other part-time agency employees.

(13) Wages earned by participants under this program are not to be considered as income for the purposes of determining eligibility for participation in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977.

9007.2 UNSUBSIDIZED EMPLOYMENT

(a) Because one goal of the program is to foster economic self-sufficiency, subgrantees should make reasonable efforts to place as many participants as possible into unsubsidized employment, in accordance with each participant's IEP.

(b) Subgrantees are responsible for working with participants to ensure that, for those participants whose IEPs include an unsubsidized employment goal, the participants are receiving services and taking actions designed to help them achieve this goal.

¹ Added 4/10/06

² Added 4/10/06

(c) Subgrantees must contact private and public employers directly or through the One-Stop Delivery System to develop or identify suitable unsubsidized employment opportunities. They must also encourage host agencies to assist participants in their transition to unsubsidized employment, including unsubsidized employment with the host agency.

9007.3 ACTIVITIES AND SERVICES NOT ALLOWED

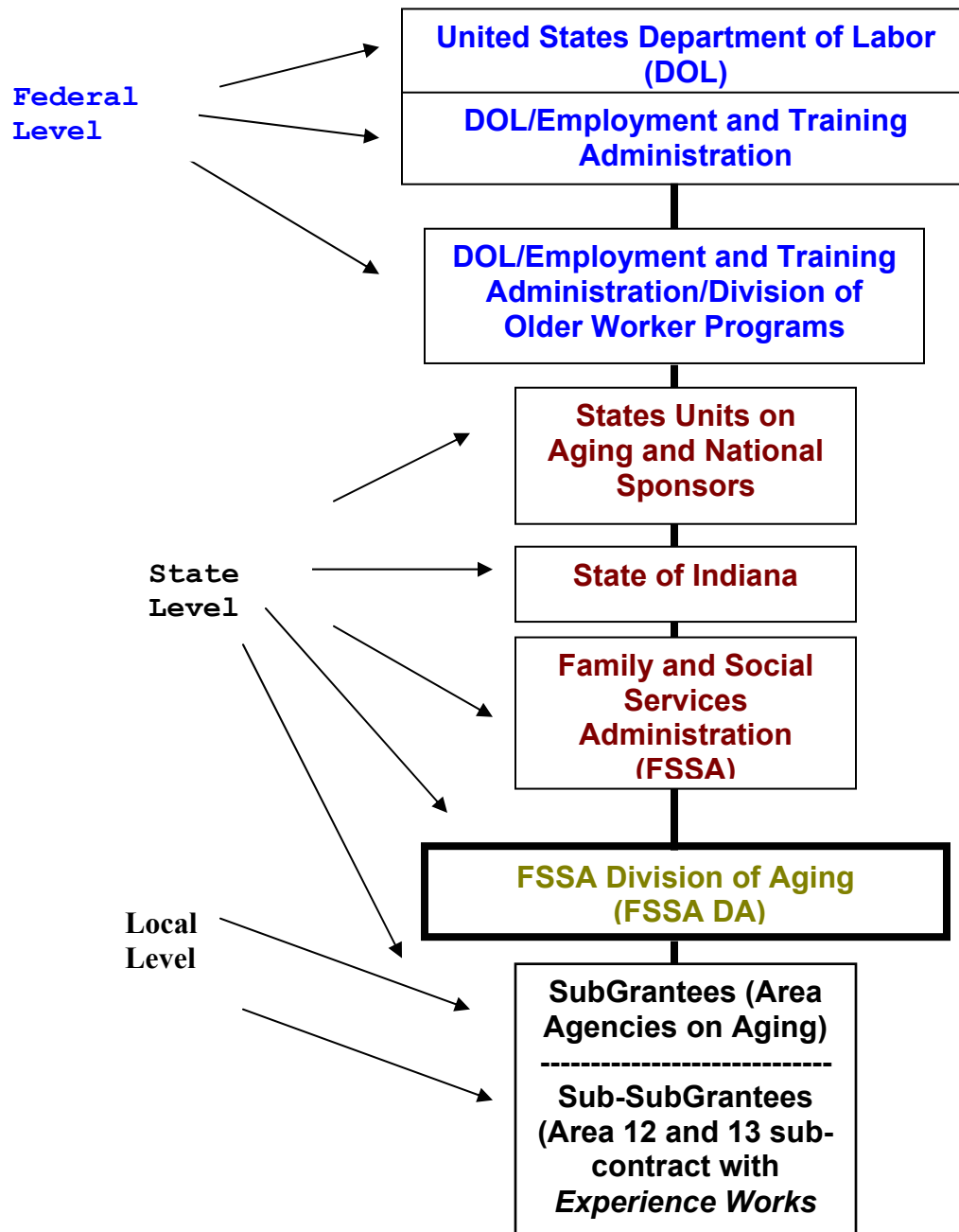
(a) Subgrantees (AAAs) may not use funds for individuals who only need job search assistance or job referral services. Subgrantees may provide job search assistance and job club activities to participants who are enrolled in the SCSEP and are assigned to community service assignments.

(b) Participants must do their community services assignments at a host agency site. Participants are not allowed to do their community service assignments in their homes. This would not meet their definition of adequate supervision.

9007.4 MISCELLANEOUS

Subgrantees (AAAs) shall follow any and all Federal laws, regulations, rules, policies, procedures, Older Worker Bulletins, TEGL's (DOL Training and Employment Guidance Letters), TEN's (DOL Training and Employment Notices), TAGs (DOL Technical Assistance Guides), DOL Manuals and User Guides, **FSSA DA** contracts, transmittals, Operation Manual and emails, or any other policy guidance provided.

CHART 25
SCSEP ORGANIZATIONAL CHART



9008 THE ANNUAL AND QUARTERLY REPORTS

The **FSSA DA** shall produce the following annual and quarterly reports for the DOL (and other reports as requested by the DOL):

- (1) State Senior Employment Services Coordination Plan (State Plan for Indiana SCSEP);
- (2) Equitable Distribution Report (ED);
- (3) SCSEP Grant Application to the DOL;
- (4) Financial Quarterly Reports to the DOL; and
- (5) Close Out Financial SCSEP Report to the DOL.

9008.1 NATIONAL GRANTEE RECOMMENDATIONS REGARDING THE STATE PLAN FOR INDIANA SCSEP (State Senior Employment Services Coordination Plan due annually, by April 1)

(a) The Governor has delegated the task of developing the State Plan for Indiana to the **FSSA DA**.

(b) The State Senior Employment Services Coordination Plan (the State Plan for Indiana) is submitted by the **FSSA DA** on behalf of the Governor as an independent document or as part of the Workforce Investment Act (WIA) Unified Plan, that describes the planning and implementation process for services in Indiana.

(c) In developing the State Plan for Indiana, the **FSSA DA** must obtain the advice and recommendations of representatives from:

- (1) The **FSSA DA** and AAA's;
- (2) State and Local Boards under the Workforce Investment Act (WIA);
- (3) Public and private nonprofit agencies and organizations providing employment services, including each grantee operating a project within Indiana;
- (4) Social service organizations providing services to older individuals;
- (5) Grantees under Title III of the OAA;
- (6) Affected communities;
- (7) Underserved older individuals;
- (8) Community-based organizations serving older individuals;

(9) Business organizations (Business appointees to the State Board can be used to meet this requirement); and

(10) Labor organizations (Labor appointees to the State Board can be used to meet this requirement).

(d) The **FSSA DA** is required to obtain the advice and recommendations of national grantees with no reciprocal provision requiring the national grantees to participate in the state planning process.

(e) The eligibility provision requires grantees to coordinate with other organizations at the state and local level. Therefore any national grantee that does not participate in the state planning process may be deemed ineligible to receive funds in the following program year.

(f) National Grantees serving older American Indians are exempted from participating in the planning requirements under Section 503(q)(8) of the OAA. These national grantees may choose not to participate in the state planning process; however, the DOL encourages participation. If a national grantee serving older American Indians does not participate in the state planning process, it must describe its plans for serving older American Indians in its application for SCSEP.

9008.1.2 INFORMATION INCLUDED IN THE STATE PLAN FOR INDIANA SCSEP

(a) At a minimum, the State Plan for Indiana SCSEP must include information on the following:

(1) The ratio of eligible individuals in each service area to the total eligible population in Indiana;

(2) The relative distribution of:

(A) eligible individuals residing in urban and rural areas within Indiana;

(B) eligible individuals who have the greatest economic need;

(C) eligible individuals who are minorities; and

(D) eligible individuals who have the greatest social need;

(E) the employment situations and the types of skills possessed by eligible individuals;

(F) the localities and populations for which community service projects of the type authorized by Title V are most needed;

(G) actions taken or planned to coordinate activities of grantees and subgrantees with the activities being carried out in Indiana under Title I of WIA;

(H) a description of Indiana procedures and time line for ensuring an open and inclusive planning process that provides meaningful opportunity for public comment;

(I) public comments received and a summary of the comments;

(J) a description of the steps taken to avoid disruptions to the greatest extent possible (see Equitable Distribution Report); and

(K) such other information as the DOL may require in the State Plan for Indiana instructions.

(b) The State Plan for Indiana should identify the following community service needs:

(1) the types of community services that are needed and the places where these services are most needed.

(2) the needs and locations of those individuals most in need of community services and the groups working to meet their needs.¹

(c) The State Plan for Indiana should address the coordination of services with activities funded under Title I of WIA by describing the following:

(1) the steps that are being taken to coordinate activities within the state with activities being carried out under Title I of WIA.²

(2) the steps being taken to ensure that the SCSEP is an active partner in each One-Stop Delivery System and the steps that will be taken to encourage and improve coordination with the One-Stop Delivery System.

(d) Modifications for the State Plan for Indiana SCSEP are required when:

(1) there are changes in Federal or State law or policy that substantially change the assumptions upon which the State Plan for Indiana is based;

(2) there are changes in the State's vision, strategies, policies, performance indicators, or organizational responsibilities;

(3) the State has failed to meet performance goals and must submit a corrective action plan; or

(4) there is a change in a grantee or subgrantees.

(5) modifications to the State Plan for Indiana are subject to the same public review and comment requirements that apply to the development of the State Plan for Indiana.

¹ Older Americans Act, Section 503(a)(3)(4) and(6)

² Older Americans Act, Section 503(a)(2)

(6) the DOL will issue additional instructions for the procedures that must be followed when requesting modifications to the State Plan for Indiana.¹

(7) public comments are solicited and collected as follows:

(A) The Governor should follow established State procedures to solicit and collect public comments. The State Plan for Indiana must include a description of the State's procedures and schedule for ensuring an open and inclusive planning process that provides meaningful opportunity for public comment. A draft of the State Plan for SCSEP in Indiana is sent to the following entities, for review and comment:

- (i) Appropriate **FSSA DA** staff;
- (ii) Each SCSEP grantee operating in Indiana;
- (iii) Non-profit providers of employment services;
- (iv) Workforce Investment Boards; and
- (v) Other organizations including business and labor.

(B) Any individual or organization may comment on the SCSEP State Plan for Indiana.

(e) The SCSEP State Plan for Indiana relates to the equitable distribution (ED) report as follows:

(1) The 2 documents address some of the same areas, and are prepared at different points in time. The ED report is prepared by the **FSSA DA** at the beginning of each federal fiscal year and provides a "snapshot" of the actual distribution of all of the authorized positions within the State, grantee-by-grantee, and the optimum number of participant positions in each designated area based on the latest available Census data. It provides a basis for improving the distribution of positions within the State. The ED report is a separate document and is an attachment to the SCSEP State Plan for Indiana.

(2) The SCSEP State Plan for Indiana is prepared by the **FSSA DA** on behalf of the Governor and covers many areas in addition to equitable distribution, as discussed in Equitable Distribution Report (4), and sets forth a proposed plan for distribution of authorized positions in the State. Any distribution or redistribution of positions made as a result of a SCSEP State Plan for Indiana proposal will be reflected in the subsequent year's ED report, which then forms the basis for the proposed distribution in the next year's State Plan for Indiana. This process is iterative in that it moves the authorized positions from over-served areas to underserved areas over a period of time. The **FSSA DA** must send a written request to the DOL for authorization to move employment positions from one county to another. Employment positions cannot be changed or moved without prior authorization from the DOL.

¹ Older Americans Act, Section 503(a)(1)

9008.2 EQUITABLE DISTRIBUTION REPORT (ED) -due annually October 1.

The equitable distribution provisions must be reconciled with the provision that disruptions to current participants should be avoided.

(1) The Governor must describe the steps that are being taken to comply with the statutory requirement to avoid disruptions in the State Plan for Indiana.¹

(2) When there is new census data indicating that there has been a shift in the location of the eligible population or when there is over-enrollment for any other reason, the DOL recommends a gradual shift that encourages current participants in subsidized community service positions to move into unsubsidized employment to make positions available for eligible individuals in the areas where there has been an increase in the eligible population. The DOL does not define disruptions to mean that participants are entitled to remain in a subsidized community service employment position indefinitely.

(3) The Grantee (**FSSA DA**) may, under certain circumstances, place time limits on an SCSEP community service assignment, thus permitting positions to be transferred over time. Grantees shall not transfer positions from one geographic area to another without first notifying the State agency responsible for preparing the State Plan for Indiana and equitable distribution report.

(4) The Grantee (**FSSA DA**) must submit, in writing, any proposed changes in distribution that occur after submissions of the equitable distribution report to the Federal Project Officer for approval. All grantees are strongly encouraged to coordinate any proposed changes in position distribution with the other grantees servicing in the State, including the State project director, prior to submitting the proposed changes to their Federal Project Officer for approval.

9008.3 SCSEP GRANT APPLICATION TO THE DOL -due annually, April 1 (or otherwise upon the directions of the DOL)

(a) The entities that are eligible to apply to the DOL for funds to administer community service projects are as follows:

(1) National Grantees.

Entities eligible to apply for national grants include nonprofit organizations, Federal public agencies, and Tribal organizations. These entities must be capable of administering a multi-State program. State and local agencies may not apply for these funds.

(2) National Grantees in a State.

Section 514(e)(3) of the Older Americans Act permits nonprofit organizations, public agencies, and States to receive funds when a National grantee in a State fails to meet its performance measures in the second and third year of failure. The poor performing grantee that had its funds competed is not eligible to

¹ Older Americans Act, Section 503(a)(6)

compete for the same funds.

(3) State Grantees.

Section 506(e) of the Older Americans Act requires the DOL to enter into agreements with each State to provide services. States may use individual State agencies, political subdivisions of a State, a combination of such political subdivisions, or a national grantee operating in the State to administer funds. If the State's funds are competed under Section 514(f) of the OAA, other agencies within the State, political subdivisions of a State, a combination of political subdivisions of a State, and national grantees operating in the State are eligible to apply for funds. Other States may not apply for this funding.

(b) An eligible entity applies in the following manner:

(1) General.

An eligible entity must follow the application guidelines issued by the DOL. The DOL will issue application guidelines announcing the availability of State and national funds whether they are awarded on a competitive or noncompetitive basis. The guidelines will contain application due dates, application instructions, and other necessary information.

(c) All entities must submit applications in accordance with the DOL's instructions.

(d) National Grant Applicants. All applicants for national grant funds, except organizations proposing to serve older American Indians, must submit their applications to the Governor of each State in which projects are proposed before submitting the application to the DOL.¹

(e) State Applicants. A State that submits a Unified Plan under WIA Section 501 may include the State's SCSEP community service project grant application in its Unified Plan. Any State that submits an SCSEP grant application as part of its WAIT Unified Plan must address all of the application requirements as published in the DOL's instructions. State Plan for Indiana SCSEP applications and modifications are addressed in State Plan for Indiana SCSEP.

(f) The factors that the DOL will consider in selecting grantees are:

(1) The DOL will select grantees from among applicants that are able to meet the eligibility and responsibility review criteria at Section 514 of the OAA. If there is a full and open competition, the DOL also will take the rating criteria described in the Solicitation for Grant Application or other instrument into consideration, including the applicant's/grantee's past performance in any prior Federal grants or contracts for the past 3 years.

(g) The eligibility criteria that each applicant must meet are:

(1) To be eligible to receive SCSEP funds, each applicant must be able to demonstrate:

¹ Older Americans Act, Section 503(a)(5)

(A) an ability to administer a program that serves the greatest number of eligible participants, giving particular consideration to individuals with greatest economic need, greatest social need, poor employment history or prospects, and over the age of 60;

(B) an ability to administer a program that provides employment for eligible individuals in communities in which they reside, or in nearby communities, that will contribute to the general welfare of the community;

(C) an ability to administer a program that moves eligible participants into unsubsidized employment;

(D) an ability to move participants with multiple barriers to employment into unsubsidized employment;

(E) an ability to coordinate with other organizations at the State and local levels, including the One-Stop Delivery System;

(F) an ability to properly manage the program, including its plan for fiscal management of the SCSEP program;

(G) an ability to minimize program disruption for current participants if there is a change in project sponsor and/ or location, and its plan for minimizing disruptions; and

(H) any additional criteria that the Secretary of Labor deems appropriate in order to minimize disruptions for current participants.

(h) The responsibility conditions that an applicant must meet are each of the listed responsibility “tests” by not having committed any of the acts of misfeasance or malfeasance described in A through N of this section.

(1) The DOL has been unable to recover a debt from the applicant, whether incurred by the applicant or by one of its subgrantees or subcontractors, or the applicant has failed to comply with a debt repayment plan to which it agreed. In this context, a debt is established by final agency action, followed by three demand letters to the applicant, without payment in full by the applicant.

(2) Established fraud or criminal activity of a significant nature within the applicant’s organization.

(3) Serious administrative deficiencies identified by the DOL, such as failure to maintain a financial management system as required by Federal regulations.

(4) Willful obstruction of the auditing or monitoring process.

(5) Failure to provide services to applicants as agreed to in a current or recent grant or to meet applicable performance measures.

(6) Failure to correct deficiencies brought to the grantee’s attention in writing as a result of monitoring activities, reviews, assessments, or other activities.

(7) Failure to return a grant closeout package or outstanding advances within 90 days after the grant expiration date or receipt of closeout package, whichever is later, unless an extension has been requested and granted.

(8) Failure to submit required reports.

(9) Failure to properly report and dispose of Government property as instructed by the DOL.

(10) Failure to have maintained effective cash management or cost controls resulting in excess cash on hand.

(11) Failure to ensure that a subgrantee complies with applicable audit requirements, including OMB Circular A-133 audit requirements specified within the audit requirements.

(12) Failure to audit a subgrantee within the period required under audit requirements.

(13) Final disallowed costs in excess of five percent of the grant or contract award if, in the judgment of the Grant Officer, the disallowances are egregious findings.

(14) Failure to establish a mechanism to resolve a subgrantee's audit in a timely fashion.

(i) The responsibility conditions that alone will disqualify an applicant are:

(1) an applicant may be disqualified if either of the first 2 responsibility tests listed in (h) is not met.

(2) the remainder of the responsibility tests listed in (h) require a substantial or persistent failure (for 2 or more consecutive years).

(3) the second responsibility test addresses "fraud or criminal activity of a significant nature." The existence of significant fraud or criminal activity will be determined by the DOL and typically will include willful or grossly negligent disregard for the use, handling, or other fiduciary duties of Federal funding where the grantee has no effective systems, checks, or safeguards to detect or prevent fraud or criminal activity. Additionally, significant fraud or criminal activity will typically include coordinated patterns or behaviors that pervade a grantee's administration or are focused at the higher levels of a grantee's management or authority. To be consistent with the OAA Section 514(d)(4)(B), this determination will be made on a case-by-case basis regardless of what party identifies the alleged fraud or criminal activity.

(j) The DOL may examine the responsibility of eligible entities by completing the following:

(1) The DOL will conduct a review of available records to assess each applicant's overall fiscal and administrative ability to manage Federal funds. The DOL's

responsibility review may consider any available information, including the organization's history with regard to the management of other grants awarded by the DOL or by other Federal agencies.¹

(k) The circumstances that the DOL may reject an application are:

(1) The DOL may question any proposed project component of an application if it believes that the component will not serve the purposes of the program. The DOL may reject the application if the applicant does not submit or negotiate an acceptable alternative.

(2) The DOL may reject any application that the Grant Officer determines unacceptable based on the content of the application, rating score, past performance, fiscal management, or any other factor the Grant Officer believes serves the best interest of the program, including the application's comparative rating in a competition.

(l) If an applicant's application is rejected, the course of action is:

(1) Any entity whose application is rejected in whole or in part will be provided a timely notice as well as an explanation, or debriefing, of the DOL's basis for its rejection. Notifications will include an explanation of the DOL's decision and suggestions as to how to improve the applicant's position for future competitions.

(2) Incumbent grantees will not have an opportunity to cure in an open competition because that will create an inequity in favor of incumbents which already have opportunities to correct deficiencies through technical assistance, provided by the DOL, under OAA, Section 514(e)(2)(A).

(3) If the Administrative Law Judge (ALJ) rules that the organization should have been selected, in whole or in part, and the organization continues to meet the requirements of this part, the matter must be remanded to the Grant Officer. The Grant Officer must, within 10 working days, determine whether the slots which are the subject of the ALJ's decision will be awarded, in whole or in part, to the organization and the timing of the award. In making this determination, the Grant Officer must take into account disruption to participants, disruption to grantees and the operational needs of the SCSEP.

(4) The Grant Officer must return the decision to the ALJ for review. In the event that the Grant Officer determines that it is not feasible, the successful appellant will be awarded its bid preparation costs or a pro rata share of those costs if Grant Officer's finding applies to only a portion of the funds that would be awarded to the successful appellant. An applicant so selected is not entitled to the full grant amount but will only receive the funds remaining in the grant that have not been expended by the current grantee through its operation of the grant and its subsequent closeout. The available remedy in a non-selection appeal is the right to be selected in the future as an SCSEP grantee for the remainder of the current grant cycle. Neither retroactive nor immediately effective election status may be awarded as relief in a non-selection appeal under this section and

¹ Older Americans Act, Section 514(d)(1) and (2)

the grievance procedure. Any organization selected and/or funded as an SCSEP grantee is subject to having its slots reduced or to being removed as an SCSEP grantee of an ALJ decision so orders. The Grant Officer provides instructions on transition and closeout to both the newly designated grantee and to the grantee whose slots are affected or which is being removed. All parties must agree to the provisions of this paragraph as a condition of being an SCSEP grantee.

(m) The Governor may make recommendations to the DOL on grant applications in the following manner:

(1) Each Governor will have a reasonable opportunity to make comments on any application to operate a project located in the Governor's State before the DOL makes a final decision on a grant award. The Governor's comments should be directed to the DOL and may include the anticipated effect of the proposal on the overall distribution of program positions within the State; recommendations for redistribution of positions to underserved areas as vacancies occur in previously encumbered positions in other areas; and recommendations for distributing any new positions that may become available as a result of an increase in funding for the State. The Governor's recommendations should be consistent with the State Plan for Indiana.

(A) Under noncompetitive conditions, the Governor may make the authorized recommendations on all applications. However, under competitive conditions, the Governor has the option of making the authorized recommendations on all applications or only on those applications proposed for award following the rating process. It is incumbent on each Governor to inform the DOL of his or her intent to review the applications before or after the rating process.

(n) grants are awarded competitively in the following manner:

(1) The DOL must hold a competition for funds when a grantee (national grantee, national grantee in a State, or State grantee) fails to meet its performance measures; the eligibility requirements; or the responsibility tests established by Section 514 of the Older Americans Act.

(2) The DOL may hold a full and open competition before the beginning of a new grant period, or if additional grantees are funded. The details of the competition will be provided in a Solicitation for Grant Applications published in the Federal Register. The DOL believes that full and open competition is the best way to assure the highest quality of services to eligible participants.

9008.4 FINANCIAL QUARTERLY REPORT TO THE DOL-269

Financial report for SCSEP expenditures due to DOL 30 days following the end of each quarter (quarters defined as: July-September, October to December, January-March, and April to June).

9008. 5 CLOSE OUT FINANCIAL REPORT TO THE DOL-due 90 days following the end of the program year (program year ends June 30).

CHART 26 Tips for Success

FSSA DA	SubGrantee	Tips for Success
1. The FSSA DA will mail and track serial numbered surveys, which are assigned to each sub-grantee.	1. Subgrantee notifies verbally & in-writing qualified employer <u>at time of placement</u> that survey will be coming	1. Employer is selected only if it is NOT also a host agency and if the sub-grantee has a <u>substantial communication</u> with the employer in connection with the placement
		2. Employer is surveyed only <i>ONCE</i> each year
		3. Self-employed participants and host agencies who become employers do <i>not</i> receive an employer survey
2. The FSSA DA will send sub-grantees a supply of surveys in numerical sequence, pre-printed reply envelopes, and blank mailing envelopes.	2. <i>Subgrantee must use the material in numerical sequence.</i> Sub-grantee takes <i>next survey in numerical order</i> and enters survey number into database (Field 23)	4. Technical assistance will be provided and sub-grantee is encouraged to contact FSSA DA as often as needed. We will promptly respond
3. The FSSA DA will monitor for compliance. <i>Monitoring Corrective Actions may include, but are not limited to the following:</i> Requests for correction Re-review Corrective Action Plans Loss of slots & funding Other sanctions as determined by FSSA DA	3. Sub-grantee assembles survey packet – cover letter, survey, return envelope (with postage stamp affixed) -- <i>and, if possible, delivers it to employer contact in person</i> -- at time of 30-day follow-up (Follow-up number 1). Please sign the survey letter in blue ink and affix postage (stamped <i>not</i> through a postage meter). Mailing of the survey is permitted, but strongly	6. Sub-grantee <i>must</i> have sufficient computer capability to assimilate new program changes & should insure that they have sufficient system technical support to ensure program compliance with all reporting and data requirements

	discouraged, due to the requirement for maintaining solid relationships with employers and for future wage data. Personal contact is always encouraged.	
4. The FSSA DA will provide prompt technical assistance, and will document all technical assistance provided into a written Q & A that will be distributed periodically to sub-grantees	4. Sub-grantee enters date of mailing into database (Field 24)	<p><u>Website references:</u></p> <p>Charter Oak Group -- primary program info, some data www.charteroakgroup.org click on Mathematica -- primary data/database info @mathematica-mpr.com US Department of Labor www.doleta.gov/Seniors Veteran's info -- DD 214 (requesting the DD-214) www.usgovinfo.about.com/bldd214.htm Social Security Administration www.ssa.gov</p>
	5. Sub-grantee enters survey number and other necessary information into Excel spreadsheet tracking form to facilitate tracking of survey response	
	6. Sub-grantee sends copy of tracking form to FSSA DA (via FAX or e-mail) to notify it that survey has been delivered	
	7. Vendor will notify sub-grantee weekly of all surveys completed. <i>Sub-grantee monitors</i>	

	<p><i>vendor e-mail for 2 full weeks after delivery of first survey (i.e. 2 weeks after the week in which the survey is delivered, and checks survey numbers of completed surveys against vendor tracking form)</i></p>	
	<p>8. If survey received. Sub-grantee updates tracking form (Field 26f) and the database and then notifies the FSSA DA of completed survey (via FAX or e-mail)</p> <p>9. If 2nd or 3rd surveys needed: Follow same steps as first survey, for the 2nd & 3rd surveys--except coordinator must enter new survey serial numbers, new dates, and wait 2 weeks for the 2nd attempt and 4 weeks for the 3rd attempt.</p>	

9009 DOL PERFORMANCE STANDARDS FOR THE GRANTEE (FSSA DA)

Before the beginning of each program year, the DOL will negotiate and set baseline levels of negotiated performance for each measure with the **FSSA DA**, taking into consideration the need to promote continuous improvement in the program overall as well as past performance. **The negotiated performance standard goals will be**

provided to the subgrantees at the beginning of each program year.¹

9009.1 INDIANA PERFORMANCE MEASURES FOR THE PROGRAM YEAR

(a) For the program year, Indiana will be held accountable for collecting information on the 7 performance measures mandated by the OAA Amendments and the implementing regulations. The following are the performance measures:

- (1) Placement Rate
- (2) Service Level
- (3) Service to Most-in-Need
- (4) Community Service Provided
- (5) Employment Retention
- (6) Customer Satisfaction for Employers, Participants, and Host Agencies
- (7) Earnings Increase

(b) Descriptions of the performance measures and the expected Program Year are as follows:

(1) Placement Rate

(A) The Placement Rate will be calculated by dividing the number of SCSEP participants placed in unsubsidized employment by the number of each grantee's authorized community service positions. Consistent with the OAA Amendments, placement may be in either full- or part-time employment.

(B) A placement requires 30 days of employment, not necessarily continuous, with 1 or more employers within the first 90 days of exit. Each day that a participant is on the payroll of an employer counts towards the 30-day requirement, regardless of whether the participant actually performs services on that day.

(C) Thus a participant who exits SCSEP for unsubsidized employment on September 1st, and remains employed with the same employer through September 30th, has achieved a placement. The baseline level of negotiated performance for "placement into public or private subsidized employment" is set at 20 percent.²

(2) Service Level

(A) The Service Level is defined as the number of a subgrantee's participants divided by the number of the subgrantee's authorized positions.

¹ Added 4/10/06

² Older Americans Act, Section 513 (a)(2)(C)

The DOL will maintain the current program requirement for state and national grantees to serve a total number of eligible individuals that is at least 140 percent of the number of authorized community service positions – this is comparable to the Government Performance and Results Act of 1993 (GPRA) goal for the program.

(3) Service to Most-in-Need

(A) The **FSSA DA** has determined that Service to Most-in-Need will reflect the percentage of total participants who are 60 years of age or older and meet at least 1 of the following criterion:

(1) Have an income level at or below the poverty line;¹

(2) Have physical or mental disability; language barrier (limited English speaking or illiteracy); and/or cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that restricts the ability of the individual to perform normal daily tasks, or threatens the capacity of the individual to live independently;² or

(3) Have poor employment history or prospects (for example, displaced homemakers³); or other social barriers.

(4) Community Service

(A) In addition to the goal of placement in unsubsidized employment, an equally important goal of the Title V program is to benefit communities through community service assignments.

(B) The Community Service measure provides a tracking method with respect to accomplishments in meeting the community benefit goal. The **FSSA DA** decided to measure Community Service by obtaining information on the number of hours of community service provided. The goal is defined as the total number of community service hours worked by all participants compared to the subgrantee's community service goal expressed in hours.

(5) Retention Rate

(A) Section 513(b)(3) of the OAA Amendments requires performance indicators to include “placement into and retention in unsubsidized public or private employment.” The **FSSA DA** will treat these 2 outcomes separately.

¹ Older Americans Act, Section 102(27)

² Older Americans Act, Section 102 (28)

³A displaced homemaker is defined as an individual who has been providing unpaid services to family members in the home and who: (1) has been dependent on the income of another family member but is no longer supported by that income; and (2) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment).

(B) The OAA Amendments define “retention in public or private unsubsidized employment” in Section 513(c)(2)(B) as: “full- or part-time paid employment in the public or private sector by an participant under this Title for 6 months after the starting date of placement into unsubsidized employment without the use of funds under this title or any other Federal or state employment subsidy program.”

(C) The **FSSA DA** plans to measure retention at 6 months by determining which participants who have been placed into unsubsidized employment are employed by any employer on the 180th day after first starting unsubsidized employment with any employer.

(6) Customer Satisfaction for Employers, Participants, and Host Agencies

(A) Section 513(b)(4) of the OAA Amendments states that indicators of SCSEP performance must include satisfaction of the participants, employers, and host agencies with their experience with SCSEP.

(B) The **FSSA DA** interprets this provision as requiring 3 separate and distinct measures of Customer Satisfaction – a customer satisfaction measure for participants, a measure for employers, and a measure for host agencies.

(C) For the employer customer satisfaction survey, the Division of Aging’s goal is to have sub-grantees deliver a survey form to every employer at a mandatory follow-up interview within 90 days after a placement. Subgrantees will be responsible for distributing written survey instruments and using a methodology established by the Division of Aging to ensure uniformity.

(D) For all 3 surveys, the targeted return rate is 70%. Subgrantees (AAAs) are instructed to deliver as many as 3 surveys in order to reach the 70% mark. The completed surveys will be sent to a central collection point for collation and analysis by a contractor selected by the **FSSA DA**.

(E) Beginning in PY 2004, Customer Satisfaction for all 3 groups will be surveyed using the American Customer Satisfaction Index (ACSI). The ACSI will allow SCSEP to look at its own performance and also to benchmark its performance against other entities within and outside of the employment and training system. The ACSI is useful in tracking change over time, making it an ideal way to gauge progress in continuously improving performance. The survey uses a set of 3 required questions. The responses to these questions are then used to form a customer satisfaction “index.”

(F) The questions are:

(1) Using a scale of 1 to 10 where “1” means “Very Dissatisfied” and “10” means “Very Satisfied” what is your overall satisfaction with the services provided by _____?

(2) Considering all of the expectations you may have had about the services, to what extent have the services met your expectations? “1”

now means “Falls Short of Your Expectations” and “10” means “Exceeds Your Expectations”

(3) Now think of the ideal program for people in your circumstances. How well do you think the services you received compare with the ideal set of services? “1” now means “Not Very Close to the Ideal” and “10” means “Very Close to the Ideal.”

(G) The ACSI score is obtained by combining scores from these three specific questions that address different dimensions of customers’ experiences. In order for the ACSI survey to yield meaningful results under the prescribed methodology, the survey questions cannot be modified in any significant way.

(H) Only the ACSI score will be used to determine a grantee’s performance on this measure. However, the **FSSA DA** will be adding additional questions, beyond those required for the ACSI, to inform subgrantees and the Division of Aging of customers’ evaluations of the services they have received.

(I) Indiana will be expected to have a combined rating of 80% satisfaction with the SCSEP services provided to participants, employers and host agencies.

(7) Earnings Increase

(A) The **FSSA DA** has elected to add Earnings Increase to the measures mandated by OAA legislation. Earnings Increase is one of the Common Measures that were developed in a Government-wide initiative and adopted by the **FSSA DA** for all DOL-funded employment and job training programs. The purpose of the common measures initiative is to compare the performance of a variety of Federal programs that have similar goals and operations.

(B) The Job Training Common Performance Measures apply to over thirty separate programs administered by different Federal Agencies. For job training programs that serve adults, there are 4 Common Measures:

- (1) Entered Employment Rate;
- (2) Retention in Employment;
- (3) Earnings Increase (as a result of program participation); and
- (4) Program Efficiency (cost per participant).

(C) Although only Earnings Increase is being adopted as a sanctionable SCSEP measure, the **FSSA DA** will collect data on the other common measures listed above. The program efficiency measure, applies to the aggregate results of the entire program and not to individual subgrantees.)

(D) OMB will evaluate the overall effectiveness of SCSEP based on these measures and will require that data be collected. The Retention, Earnings Increase, and Program Efficiency measures are new to SCSEP; and the Entered Employment Rate is calculated by a different methodology from the one that

SCSEP grantees used for “placement into unsubsidized public or private employment” – the SCSEP Placement Rate.

(E) The **FSSA DA** has used its discretionary authority, specified in the OAA, Section 513(b)(5), to select the measure ‘Earnings Increase’ as a required performance indicator for SCSEP, in 2004. The ‘Earnings Increase’ measure has 2 separate components:

(i) Earnings Increase ONE (“pre-post”) is defined as follows: “Of those who are employed in the 1st quarter after program exit, earnings in the first quarter after exit minus earnings in the quarter prior to registration divided by earnings in the quarter prior to registration.”

(ii) Earnings Increase TWO (“post-post”) is defined as follows: “Of those who are employed in the 1st quarter after program exit, earnings in the 3rd quarter after exit minus earnings in the 1st quarter after exit divided by earnings in the 1st quarter after exit.”

(F) The standard for Indiana shall be:

(i) Earnings Increase ONE (pre-post) shall be 25% higher than the pre-program earnings

(ii) Earnings Increase TWO (post-post) shall be 10% higher than Earnings Increase 1.

(iii) Upon Department notification, Indiana will begin this standard. This goal will be sanctionable as of July 1st, 2005 and those subsequent years thereafter.

(c) Performance levels (or standards) for the first 6 performance measures will be set on July 1st, 2005, for every State grantee and national grantee organization. The **FSSA DA** plan is to base the performance levels for each of these indicators on data to be collected by the SCSEP system in PY 2004. Baseline data on the earnings increase measure will be collected during PY 2004 and PY 2005, and the performance levels for this measure will be effective on July 1st, 2006.

CHART 27
PERFORMANCE MEASURES

Performance Measures	Common Measures
1.The number of persons served is defined by comparing the total number of participants served to a grantee's authorized number of positions adjusted for the differences in wages required to be paid in a State or area (baseline 140%).	
2.The number of persons served, with the greatest social need or with poor employment history or prospects, and those over 60 years old is defined by comparing the total number of participants served to the total number of participants who: are over age 60 and have an income level at or below the poverty line; or have physical and mental disabilities, language barriers, isolation, factors that restrict individual ability to perform normal daily tasks or threaten independent living capability or have poor employment history or prospects.	
3.Community services provided is defined as the number of hours of community service provided by SCSEP participants.	
4.Placement into unsubsidized public or private employment is defined by comparing the number of participants placed into unsubsidized employment to the total number of authorized positions.(Minimum 20%, GPRA 35%).	1. Entered employment, defined as the percentage employment in the first quarter after program exit. The percent of exiters not employed prior to program employment who were employed in the quarter after quarter of exit.
5.Retention in public or private unsubsidized employment means the number of participants retained in unsubsidized employment, compared to the total number of the first quarter after exit-(6 months).	2. Retention in employment, defined as the percentage of those employed in the first quarter after exit who were still employed in the second quarter after exit.
6.Satisfaction of participants means the results accumulated as the results of surveys of the participant customer group of their satisfaction with their experiences and the services provided.	
7. Satisfaction of employers means the results accumulated as the results of surveys of the employer customer group of their satisfaction with their experiences and the services provided.	
8. Satisfaction of host agencies means the results accumulated as the results of surveys of the host agency customer group of their satisfaction with their experiences and the services provided.	
9. Earnings increase means the percentage change in earnings pre-registration to post-program, and between the first quarter after exit and the third quarter after exit.	3. Earnings (Gain 1) increase defined as the percentage change in earnings pre-registration to post program, and between the first quarter after exit and the third quarter after exit.
	4. Earnings (Gain 2-post-program 1 st quarter to 3 rd quarter) defined as the percent change in earnings in the first quarter after exit, the difference in earnings between the 1 st and 3 rd quarters after exit.

9010 DOL PERFORMANCE MEASURES SANCTIONS

- (a) If the **FSSA DA** meets 80-100% for the aggregate of all the performance measures, there will be no sanctions.
- (b) If the **FSSA DA** fails to meet 80-110% for the aggregate of all the performance measures during the first year, the sanctions will involve a corrective plan of action 160 days after the end of the program year to meet the performance measures as well as receiving technical assistance from the Department of Labor.
- (c) If the **FSSA DA** fails to meet 80-100% for the aggregate of all the performance measures after the second year, 25% of the grant funds must be put up for competitive bids.
- (d) If the **FSSA DA** fails to meet 80-100% for the aggregate of all the performance measures after the third year, 100% of the grant funds must be put up for competitive bids.
- (e) Sanctions will be passed down to the subgrantees (AAAs) based on the following:
 - (1) failure to meet 80-100% for the aggregate of all the performance measures.
 - (2) poor program assessment.
 - (3) grant funds are reduced resulting in loss of authorized positions.
- (f) Based on a combination of items (see Section 9011 (e)(1) and (2)) positions may be taken from a subgrantee as a result of poor performance. The positions eliminated will be in a county that is over-served (based on the current the DOL's Equitable Distribution Report). Positions may be awarded to another subgrantee as a reward for over-performance and must be utilized in a county that is under-served.
- (g) If sanctions are in effect or grant funds have been reduced which resulted in a loss of authorized positions, any subgrantee with a combination of poor program assessment and a failure to meet 80-100% of the grant funds may be reduced positions and the positions may be eliminated from a county that is over-served.

9011 APPEALS POLICY AND PROCEDURES FOR PARTICIPANTS (SAME AS FOR CLIENT)

A participant has the right to appeal decisions regarding eligibility and services.

(1) The appeals procedure is as follows:

(A) Step One Informal Review

- (i) An informal review with the subgrantee (AAA) will be conducted, to first discuss any questions, concerns, or problems regarding eligibility and services. This informal meeting may take place either at the host agency site (if required), the office of the subgrantee or at the participant's home or another neutral site.

(ii) Within 5 working days of the date of the informal meeting, the subgrantee shall inform the participant in writing:

(I) of the decision reached on the issues raised at the meeting; and

(II) that the participant may request the **FSSA DA** review to the subgrantee's executive director or designee within 18 calendar days of the date of the decision.

(B) Step Two: Subgrantee Review

(i) The subgrantee review process begins when a participant, within 18 calendar days of the date of the decision, requests a review following the requirements of Step One. The participant and subgrantee supervisor shall attend the review.

(ii) The participant will be given the opportunity to testify, present supporting materials, explain the participant's reasons for disagreement with the action or decision, and present an appropriate alternative. The subgrantee supervisor may testify and explain the reasons for the decision or action taken.

(iii) Following the review, the subgrantee executive director or the designee conducting the review shall consider the comments of the participant and the subgrantee supervisor.

(iv) Within 5 working days from the date of the Subgrantee Review, the subgrantee's executive director or designee shall prepare the subgrantees final decision in writing that will include findings of fact and the specific reason for the decision. The decision shall inform the participant of the participant's right to have an administrative hearing under Step 3 if the participant is dissatisfied with the subgrantee's final decision. The participant shall be sent a copy of the decision by registered or certified mail, return receipt requested within 14 calendar days.

(C) Step Three: Administrative Hearing

(i) If a client is dissatisfied with the decision reached at the subgrantee review, the participant may appeal the decision by requesting an administrative hearing. The participant shall make the request for an administrative hearing in writing to the Director of the **FSSA DA** within 18 calendar days of the date of the decision from the subgrantee review. The request shall include a statement regarding the issues the participant wishes reviewed and contain the participant's signature and the date.

(ii) Administrative hearings shall be conducted by Administrative Law Judges or hearing officers appointed by the **DDRS** director. The Administrative Law Judge shall, at least five working days in advance of the hearing, notify all involved persons by registered or certified mail, return receipt requested, of the date, time, and location of the hearing. The subgrantee shall forward all written case documentation to the Administrative Law Judge (ALJ) prior to the hearing. The hearing will be conducted in accordance with Indiana Code 4-21.5.

(iii) Testimony will be taken under oath or affirmation, and the proceedings will be tape recorded. The participant, any other witnesses that a party chooses to present, and the subgrantee supervisor will each be given an opportunity to place written material into evidence, present additional written or oral statements, and ask questions of any party. If the participant wishes to have a transcript of the hearing, **DDRS** will transcribe the tape at the participant's expense.

(iv) The Division may waive this cost in exceptional circumstances. Immediately following the hearing but not later than five working days, the Administrative Law Judge shall prepare the proposed decision that will include a report of the findings of fact and the reasons for the decision based on those findings of fact. This proposed decision shall be forwarded to the **DDRS director**.

(v) A copy of the proposed decision shall be sent to the subgrantee, and the participant, by registered or certified mail, return receipt requested. The **DDRS** director shall affirm, modify, or dissolve the Administrative Law Judge's proposed decision. The subgrantee and the participant shall be notified of the director's final order by registered or certified mail, return receipt requested.

(D) Step Four: Review

(i) The DOL will not review final grantee determinations, except to determine whether the grantee's appeals procedures were followed. Within 60 calendar days of the result of Step 3, a participant may appeal to the DOL based on the following:

(I) If an appeal alleges violation of federal law, an appeal may be filed with:

U.S. Department of Labor, Employment and Training
Administration, Division of Older Worker Programs
200 Constitution Avenue, NW
Washington, D. C. 20210

(II) If an appeal alleges a violation of, the non-discrimination requirements of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, section 188 of the Workforce Investment Act of 1998 (WIA), or their implementing regulations, the appeal may be directed to:

Director
Civil Rights Center
U.S. Department of Labor
Room N-4123
200 Constitution Avenue NW
Washington, D. C. 20210

More Information can be found at:

Indiana Administrative Code 460, IAC 1- 4-10

**SCSEP Final Rule
Code of Federal Regulations, 20 CFR Part 641
641.800-641.884**

**Code of Federal Regulations, 29 CFR, Part 93 Prohibited Activities
Code of federal Regulations, 29 CFR, Part 97(States) OMB Circular A-102 "Grants
and Cooperative Agreements with States and Local Governments"
Code of Federal Regulations, 20 CFR, Part 95(Non-Profits) OMB Circular A-110,
OMB A-122
Code of Federal Regulations, 20 CFR, Part 99(Vendors and subrecipients)
OMB Circular A-133 Financial and Compliance audit
OMB Circular A-87**

**Older Americans Act of 1965, as amended in 2000
Section 501(b)(1)(O)(R)
Section 502(c)(1)(2)(3)(4)(5)(6)(A)(B)
Section 502(e)
Section 503(f)(2)(3)
Section 514
Section 515(b)(c)**

**SCSEP Final Rule
Code of Federal Regulations, 20 CFR Part 641
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**Code of Federal Regulations, 29 CFR, Part 93 Prohibited Activities
Code of federal Regulations, 29 CFR, Part 97(States) OMB Circular A-102 "Grants
and Cooperative Agreements with States and Local Governments"
Code of Federal Regulations, 20 CFR, Part 95(Non-Profits) OMB Circular A-110,
OMB A-122
Code of Federal Regulations, 20 CFR, Part 99(Vendors and subrecipients)
OMB Circular A-133 Financial and Compliance audit
OMB Circular A-87**

**Older Americans Act of 1965, as amended in 2000
Section 501(b)(1)(O)(R)
Section 502(c)(1)(2)(3)(4)(5)(6)(A)(B)
Section 502(e)
Section 503(f)(2)(3)
Section 514
Section 515(b)(c)¹**

**SCSEP Final Rule
Code of Federal Regulations, 20 CFR Part 641 and 641.800-641.884
Older Americans Act of 1965, as amended in 2000**

¹ Added 4/10/06

Section 501(b)(1)(O)(R)
Section 502(c)(1)(2)(3)(4)(5)(6)(A)(B)
Section 502(e)
Section 503(f)(2)(3)
Section 514
Section 515(b)(c)¹

SCSEP Final Rule
Code of Federal Regulations, 20 CFR Part 641 and 641.800-641.884

¹ Added 4/10/06

**SECTION 10 - RESERVED FOR COMMUNITY AND HOME OPTIONS TO
INSTITUTIONAL CARE FOR THE ELDERLY AND DISABLED PROGRAM
(CHOICE)**

SECTION 11

11000 - RESIDENTIAL CARE ASSISTANCE PROGRAM (RCAP)

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11000 RESIDENTIAL CARE ASSISTANCE PROGRAM (RCAP) PURPOSE

(a) The Residential Care Assistance Program (RCAP) is a state funded program that is composed of two parts; Room and Board Assistance (RBA) and Assistance to Residents in County Homes (ARCH).

(b) RBA provides financial assistance contingent on availability of funds, to eligible persons who reside in county owned and operated residential facilities or Christian Science facilities certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Incorporated.¹

(c) ARCH provides financial assistance contingent on availability of funds, to eligible persons who reside in county owned and operated residential facilities.²

11001 CLIENT ELIGIBILITY

(a) The RCAP applicant must meet Indiana residency requirements by being a resident or potential resident of a facility contracted by FSSA DA to provide RCAP services.

(b) The RCAP applicant must also meet at least one of the following categorical eligibility requirements³:

(1) AGED - must be 65 years of age or older;

(2) BLIND - The degree of blindness is determined by the FSSA Medical Review Team (MRT) based upon a visual exam, unless both eyes are missing, applicant receives SSI based upon blindness, or eligibility has previously been established under Medicaid Blind (MA B category) The client also must be at least eighteen (18) years of age; or

(3) DISABLED – Disability is determined by the Medical Review Team (MRT) based upon social and medical information. The client also must be at least eighteen (18) years of age. Physical exam is required unless:

(A) the applicant is receiving SSI based upon disability;

(B) the MRT has previously established eligibility and required no progress report; or

(4) CURRENT MEDICAID FOR THE BLIND (MA D) recipient.

(c) The RCAP applicant has the responsibility of furnishing all information necessary to determine eligibility. The DFR caseworker has the responsibility of verifying all eligibility requirements.

¹ Indiana Code, 12-10-6-2.1

² Indiana Code, 12-10-6-1

³ Indiana Code, 12-10-6-1(a)1)(2)

11001.1 FINANCIAL ELIGIBILITY

(a) Resources:

- (1) All resources must be verified.**
- (2) All countable resources must be available¹ to the client(s).**
- (3) For RCAP eligibility determination the resources of the applicant/recipient (A/R) AND the spouse if they are both living in the RCAP facility are counted.**
- (4) For RCAP eligibility determination, the resources owned solely by the spouse not in the RCAP facility are not counted. (For RCAP related Medicaid (MAR) the resources of the applicant/ recipient AND the resources of the spouse at home are to be counted).**
- (5) Current month's income is not counted as a resource.**
- (6) A resource remains a resource even after liquidation.**
- (7) Resource limitation for a single A/R is \$1,500 and \$2,250 for a couple both living in the facility.**
- (8) Equity value of all non-exempt personal property is counted.**
- (9) Examples of personal property are:**
 - (A) cash;**
 - (B) contents of a safety deposit box;**
 - (C) stocks/bonds;**
 - (D) bank accounts;**
 - (E) cash surrender value of life insurance owned by the A/R and his/her spouse who also lives in the RCAP facility;**
 - (F) automobiles; and**
 - (G) recreational vehicles.**
- (10) Some personal property is exempt. Examples of exempt personal property are:**
 - (A) one automobile needed for employment, medical treatment, or**

¹ "Availability" means the owner of a resource has the ability to liquidate or dispose of the resources. A resource can be solely or jointly owned. See ICES Program Policy Manual, Section 2605.10.00 and 2605.10.05 for more information.

modified for a handicapped person;

(B) irrevocable burial trust;

(C) cash surrender value of life insurance policies with total face value of \$1,400 or less if provision has been made for payment of the funeral expenses of the A/R from the proceeds of the insurance, the \$1,400 limitations is reduced by any amount in an irrevocable burial trust or an irrevocable prepaid funeral agreement;

(D) all personal effects;

(E) personal property used to produce income (if the income is more than the expenses); and

(F) proceeds or any interest earned on the proceeds of casualty insurance received as a result of damage, destruction, loss or theft of exempt real or personal property for a period of no more than 9 months.

(11) Real property is considered based upon whether or not it is exempt. Examples of exempt real property are:

(A) the home if it is the residence of the A/R's spouse, child(ren) under 18; or child(ren) over 18 if blind/disabled;

(B) income producing property (if income is greater than expenses of ownership); and

(C) burial spaces.

(12) Non-exempt real property must be offered for rent or sale at a fair market value (FMV).

(13) Excess resources on the first day of the month render an A/R ineligible for the whole month.

(14) A life care contract may render an individual ineligible for RCAP unless the facility can prove that it is no longer able to fulfill the legal responsibilities under the contract.

(b) Income:

(1) Monthly income is considered in the month it is received. (Exception: When a direct deposited income check is received early, the amount of the direct deposit must be counted for the month it was intended.)

(2) Fluctuating income is to be averaged on a three month basis.

(3) Income received less often than monthly is to be prorated by the number of months to be covered.

(4) Regular income is to be converted to a monthly amount as follows:

- (A) Weekly income is multiplied by 4.3;
- (B) Bi-weekly income is multiplied by 2.15; and
- (C) Semi-monthly income is multiplied by 2.

(5) Unearned income is income not received from an employer, such as SSI (Supplemental Security Income), RSDI (Retirement, Survivors, and Disability Insurance), pensions and other types of income. Gross income is counted.

(6) Earned income is payment received in cash from an employer; such as wages, salaries or commissions, or income from rental property.

(7) Allowable deductions from earned income are as follows:

- (A) sixteen dollars for each employed person (not per job);
- (B) all mandatory payroll deductions;
- (C) transportation expense to and from work;
- (D) mandatory meals; and
- (E) any other mandatory expenses.

(8) For sheltered workshop earnings, divide the net income by two (after allowing applicable expenses).

(9) Refer to ICES Program Policy Manual (IPPM), Section 3420.00 regarding the treatment of rental income.

(10) Disregarded income includes:

- (A) educational funds designated for tuition, books, and fees;
- (B) tax refunds; and
- (C) tax liabilities for state and local income taxes;
- (D) Holocaust victim's settlement payment.¹

(11) SSI is not exempt or disregarded as income for an RCAP A/R.

(d) Appeals – If the applicant/ recipient is not satisfied, an appeal may be requested. Refer to *Hearings and Appeals Process* - Section 3000 for appeal procedures.

¹ Indiana Code, 12-10-6-1(f) Added 4/10/06

11002 THE ROLE OF FSSA DA

(a) FSSA DA will assign a person to the RCAP as a coordinator.

(b) The RCAP Coordinator will:

(1) develop policies in coordination with all stakeholders to include other State staff and FSSA Division of Family Resources;

(2) provide guidance and training as needed;

(3) receive and attempt to resolve problems/ complaints in coordination with other stakeholders;

(4) monitor all aspects of the program to include timeliness and accuracy of the intake/eligibility process which includes taking periodic random samples of cases submitted by DFR caseworkers to verify timeliness and accuracy, and contacting DFR caseworkers to provide technical advice when inaccurate or incomplete documentation is received by FSSA Claims Management;

(5) coordinate problem solving with the State office of DFR;

(6) review Housing with Services Establishments Disclosure form submission;

(7) develop a monitoring tool in coordination with DFR staff and all other stakeholders;

(8) make on-site monitoring visits; and

(9) utilize written and face-to-face interviews to determine client satisfaction with services.

11003 CASE PROCESSING

(a) Case processing is completed by the DFR caseworker in the counties where RBA and/or ARCH facilities are located or in the county where the applicant resides.

(b) Applications must be processed and the State Form 5B *Assistance to Residents in County Homes/Room and Board Assistance Budget and Recommendation* must be completed and submitted to FSSA claims processing within twenty working days from the date of receipt of all requested documentation.

(c) Acceptance and processing of RCAP applications includes the following steps:

(1) The DFR caseworker shall gather documentation verifying the applicant meets the eligibility criteria;

(2) If found eligible, the client will be placed on the RCAP, if state funding is available.

(3) If found eligible and funding for additional slots is not available, the applicant shall be advised to check again after the beginning of the next State Fiscal Year. RCAP does not keep a waiting or inquiry list.

(d) All applications must be complete and must be signed and dated by the applicant or someone acting on their behalf. If the application is signed in the presence of a DFR caseworker, the application is valid of that date. If the application is not signed in the presence of the caseworker, the signature must be notarized. In such cases, the valid date is the date the application was notarized.

(e) During the application process, the following shall be completed:

(1) an applicant must inform the DFR caseworker of their choice of facility and the facility's willingness to accept the applicant as a resident. If the applicant does not have a facility that will accept the applicant, no application will be taken.

(2) potential applicants are to complete an Application for the Residential Care Assistance Program at their local DFR.

(3) the DFR caseworker will determine eligibility of applicants for RCAP and Medicaid program or State Medical Assistance, if applicant will be entering a County Home.

(4) when an applicant has been determined eligible for RCAP, the DFR caseworker will send the recommendation form and budget recommendation (see appendix) to FSSA Claims Management. The DFR caseworker will enroll the applicant in the Medicaid program pending RCAP or State Medical Assistance, if the applicant will be entering a county home.

(5) FSSA Claims Management will send a Certificate of Action indicating the eligibility date of the applicant based on the date of application, to the respective DFR, the FSSA Division of Aging (FSSA DA) and two copies to the facility, one of which is to be given to the resident.

(f) Denials/Terminations

(1) When an applicant is denied or terminated from the RCAP by the DFR, a Budget Recommendation Form will be sent to the FSSA Claims Management. After appropriate action, FSSA Claims Management will send a Certificate of Action indicating the change to the respective DFR and two copies to the respective facility, one of which is to be given to the resident.

(g) Continuing Program Eligibility

(1) The DFR caseworker is responsible for determining that each resident continues to meet all eligibility requirements. There must be a re-determination completed annually. The DFR caseworker will send an annual Recommendation Form to FSSA Claims Management. FSSA Claims Management will send a certificate of action indicating any changes to the respective DFR, the FSSA DA and two copies to the respective facility, one of which is to be given to the resident.

(h) Ceasing the Acceptance of New Applications

(1) The FSSA DA will monitor the RCAP budget to determine if funds are available to support new applicants.

(2) If such a level of encumbrance is reached that warrants suspension of accepting new RCAP applications, the FSSA DA will send a notice to all DFR to discontinue taking new applications. The DFR will post this notice in a public place in their offices.

(3) The FSSA DA will send a copy of the notice to discontinue taking applications to all RCAP providers.

(4) All residents currently enrolled will continue to receive RCAP funding.

(5) Any applications that are pending at DFR or FSSA Claims Management, prior to the effective date of the notice to discontinue, will be processed (Prior to the effective date means by the close of business on the day before the date indicated on the Termination Notice)

(i) Resumption of Accepting and Processing RCAP Applications

(1) If FSSA DA determines that funds are available to re-open the application process, a notice will be sent to all DFR informing them that they are to resume accepting and processing new applications for RCAP. The DFR will post this notice in a public place in their office.

(2) The FSSA DA will send a copy of the notice to all RCAP Providers.

(j) Case Numbering

(1) The RBA or ARCH case number is separate and distinct from the Medicaid number. Each client will have an RBA or Arch number in addition to his/her Medicaid number.

(2) Each Case Number must consists of ten symbols;

(A) A 2 letter prefix that identifies the category of service;

MA = RBA Aged	MD = RBA Disabled	MB = RBA Blind
RA = ARCH	RD = ARCH Disabled	RB = ARCH Blind

(B) a two digit county number; and

(C) a six digit case number

(3) Case number examples:

RA49001234 = ARCH aged client, Marion County, case number 1234

MB01000312 = RBA blind client, Adams County, case number 312

(4) Case numbers must be unique to the individual case. The DFR must assure that case numbers within each of the two categories of service (ARCH and RBA) remain separate and in numerical order, i.e.:

(5) Examples: ARCH Cases 123, 124, 125
 RBA Cases 123, 124, 125

11003.1 BUDGETING

(a) General Explanations:

(1) Personal Needs Allowance (PNA)

(A) Each RCAP client is allowed to keep from their monthly gross income an amount specified in state law (IC 12-10-6-1) to meet their monthly personal needs (Personal Needs Allowance or PNA). The balance of their income (liability) goes to the facility. In cases where the individual has no income, the state provides the required PNA amount to the individual.

(B) Current PNA amount as established by the legislature is fifty-two dollars.¹

(2) Supplemental Security Income (SSI)

(A) When an individual who receives SSI in the community enters an RBA facility, the individual will continue to receive SSI benefits.

(B) When the SSI recipient moves into an ARCH facility the Social Security Administration (SSA) totally discontinues the SSI benefits.

¹ Indiana Code, 12-10-6-1(d)(1)

(b) Budgeting Income of Single RCAP Recipient includes the following steps:

- (1) Determine countable income;**
- (2) Subtract the PNA;**
- (3) The unrounded remainder is the liability amount.**
- (4) Subtract the RCAP rate from the liability. The RCAP monthly rate is computed by multiplying the facility's daily rate by 365 and dividing by 12 months equaling the monthly per diem. The RBA per diem rate is \$39.35/day. The ARCH per diem rate is \$27.00/day.**
- (5) If the resultant amount is a deficit, this will be the amount of the RBA award.**
- (6) If there is a surplus, the applicant is ineligible RCAP.**
- (7) If there is a surplus for a current recipient, due to an increase in income, the individual is eligible only if the surplus does not exceed the facility's private rate and the recipient is willing to pay the excess income to the facility.**
- (8) The liability for the RCAP facility is not a Medicaid liability and is not computed by ICES or entered into the system. It is computed manually by the caseworker.**

(c) Budgeting Income for Applicant and Spouse.

- (1) Both applicant and spouse must be living in the RCAP facility.**
- (2) Consider each spouse's eligibility as directed in the budgeting procedure for a single applicant.**
- (3) If one spouse is eligible and one is ineligible, all or part of the ineligible spouse's income is considered to be available to the other spouse.**
- (4) Determine the ineligible, spouse's average monthly medical expenses (See Table 1 Spousal Allotment on State Form 31759/(R25-96/BAIS0005B).**
- (5) Subtract these expenses from his/her surplus income.**
- (6) The result is the amount of available (deemed) income for the other spouse.**
- (7) Add the amount of deemed income to the eligible spouse liability.**
- (8) If the eligible spouse's liability does not equal or exceed the facility's RCAP rate, the case is approved.**

(9) If the eligible spouse is a recipient, she/he remains eligible as long as the liability does not equal or exceed the private pay rate.

(d) Budgeting For Partial Month of Admission.

(1) If an applicant enters the RCAP facility on a day other than the first day of the month, eligibility for that month is based upon the RCAP daily rate multiplied by the number of days remaining in the month. The current licensed facility or RBA rate is \$39.35/day and ARCH is \$27.00/day.

(e) Special Circumstances

(1) When a Medicaid (Title XIX) recipient has a spend-down and enters an RCAP facility after the first day of the month, the Medicaid eligibility is based on the RCAP eligibility.

(2) RCAP per diem cannot be used to meet Medicaid Spend-Down

(3) RCAP clients may not pay a Spend-down to be eligible for the RCAP program to meet spend-down.

(4) RCAP clients may not pay a on the RCAP program.

(5) A Medicaid recipient who enters an RCAP facility directly from a nursing home after the first day of the month.

(6) An RCAP recipient who leaves the RCAP facility and goes to a nursing home is expected to pay the RCAP facility for the days he/she resides there.

(7) Nursing home liability should be computed for no later than the second subsequent month.

(8) An RCAP recipient who leaves the RCAP facility and returns to the community is expected to pay the per diem charges up to the liability for the days he/she resided in the RCAP facility.

(9) An RCAP recipient who leaves the RCAP facility and returns to the community is expected to pay the per diem charges up to the liability for the days the individual resided in the RCAP facility.

11004 PROVIDER INFORMATION

(a) To be a RCAP Provider, a facility must be:

(1) licensed by the State Department of Health as a residential care facility under IC 16-28; or

(2) an accredited Christian Science facility; or

(3) a facility owned and operated by an Indiana County Government office;
and

(4) have a contractual agreement with the FSSA DA to provide services.

(b) An accredited Christian Science facility or a facility owned and operated by an Indiana County Government office must:

(1) meet all applicable fire safety codes and receive regular fire safety inspections from the State Fire Marshall's office or local fire department
(and)

(2) have regular health inspections by the appropriate local entity.

(c) All RCAP Providers are classified as "housing with services establishments" and must file the "*Disclosure For Housing With Services Establishments*" form annually in accordance with Indiana Code 12 -10-15. Housing with services establishments include any freestanding facilities and/ or part of a campus or complex (Independent living, nursing facility, apartment complex, hospital and/or continuing care facility. If a disclosure form is not submitted, the business shall not:

(1) enter into or extend the term of the contract with an individual to reside in a housing with services establishment; or

(2) use the term "assisted living" to describe the housing with services establishment's services and operations to the public. See the form titled - *Disclosure For Housing With Services Establishments* - which can be accessed on the FSSA website. The web address is <http://www.in.gov/fssa>.

11004.1 PROVIDER SERVICES

(a) An RCAP Provider must provide room and board, housekeeping, laundry and minimal supervision to RCAP clients. Also, the following requirements must be met:

(1) Facilities must be clean and as homelike as possible;

(2) Residents will have clean linens and clothing available at all times; and

(3) Supervision will be conducted in such a way as to maximize a client's potential for autonomy and decision making.

(b) Client Intake Option:

(1) RCAP providers may assist applicants in completing an application for RCAP Services. The applications will be processed by the local DFR office under the following circumstances:

- (A) The application is signed and dated by the applicant in the presence of a notary public;
- (B) There are RCAP slot vacancies available. (See Section 11003 (g) - *Ceasing Acceptance of Applications*); (and)
- (C) The application is received in the DFR office within 10 working days of the date it was signed and notarized.

(c) Required Administrative Activities

(1) RCAP Providers are required to notify the DFR office of any change in a client's RCAP status within 10 days of change. RCAP Status changes include:

- (A) change in income;
- (B) no longer eligible for RCAP;
- (C) moved from the facility;
- (D) voluntarily withdrew from program; and
- (E) hospital stay exceeding number of paid days available.
- (F) Short-term nursing home stay
- (G) Death (Always include date of death.)

(2) Follow-up to application change of status report:

(A) The RCAP provider should follow-up on any application or change of status report if there has been no resulting action after 45 days. First contact should be with the DFR caseworker assigned to work with the facility. Should further action be needed, the FSSA DA RCAP Program Coordinator should be contacted.

11004.2 REIMBURSEMENT

(a) Reimbursement for services established by FSSA DA (IC12-10-6-1). The current rate is \$39.35/day for licensed facilities. The current rate for unlicensed facilities is \$27.00/day.

(b) Payment to an RCAP provider will not exceed lower of the maximum rate established by FSSA DA or the facilities private pay rate.

(c) See Section 11003(a) for payment for client personal needs allowance.

11004.3 PAYMENT FOR PROVIDER SERVICES

(a) Payment is made on a per client, per day basis.

(b) Payment will be made to hold a place for a RCAP client under the following circumstances for the maximum time indicated:

(1) Hospital stay - 15 days paid per visit.

(2) Vacation days - 18 days paid every 6 months (Based on the RCAP effective date).

(A) Vacation days may be used for extended hospital or rehab stays-
A change of RCAP status form must be completed and sent to DFR
by the provider.

(3) Rehabilitation days - 15 days non-paid per visit.

11003.4 CLAIMS MANAGEMENT PROCESS

(a) Family and Social Services Administration (FSSA) Claims Management (CM) receives the application packet or updating documentation with case information, the DFR caseworker's signature as verifying verification of the information. (Note: all payments are based on information submitted by caseworkers.)

(b) If the applicant has been determined not eligible, or another adverse action has been determined, FSSA Claims Management sends a Certificate of Action (COA) denying services to the applicant, the chosen provider and the DFR caseworker. The mailing will include a notice of the appeal procedure.

(1) If the applicant has been determined eligible or another positive action has been determined and all forms are determined complete and correct by the FSSA, Claims Management enters the date in the claims management data system (CMS) and sends a Certificate of Action to the applicant, the chosen provider, the DFR Caseworker stating date of client's eligibility.

(2) Enter information from the packet into the Claims Management Data System (CMS).

(3) FSSA Claims Management sends information necessary to authorize payment for services and to authorize payment of appropriate PNA to clients to the State Auditor's Office monthly. The State Auditor's office cuts the checks and returns them to Claims Management.

(4) Payment is issued monthly, by the State Auditor's Office.

(c) Handling of Incomplete or Incorrect Information submitted by the DFR caseworker:

(1) When Claims Management receives incomplete or questionable information from a DFR Caseworker or when the information conflicts with

client or provider information already in the CMS; Claims Management will forward the information to FSSA DA RCAP Program Coordinator for follow-up.

12000 - MEDICAID NURSING FACILITY LEVEL OF CARE HOME AND COMMUNITY-BASED SERVICES WAIVERS

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12000 Medicaid Waiver

12000.1 Aged and Disabled Waiver (A&D)

12000.2 Assisted Living

12000.3 Traumatic Brain Injury (TBI)

12000.4 Medically Fragile Children's Waiver (MFC)

12000 MEDICAID NURSING FACILITY LEVEL OF CARE HOME AND COMMUNITY-BASED SERVICES WAIVERS

(a) Policy.

At the State level, the four Nursing Facility (NF) Level of Care Medicaid Waivers shall be administered by Waiver Services within the FSSA DA. The Waiver Services administered by the FSSA DA include the following:

12000.1 Aged and Disabled Waiver (A&D)

Serves clients who meet Medicaid guidelines and are either 65 years old or have disabilities. Clients must meet level of care standards of a skilled or intermediate nursing facility. The client has chosen to receive services in a home setting.

12000.2 Assisted Living Waiver (AL)

Serves clients who meet Medicaid guidelines and are at least 18 years old. Clients must meet level of care standards for intermediate (can not be assessed at a skilled level of care) nursing facility. The client has chosen to receive services in an Assisted Living Facility.

12000.3 Traumatic Brain Injury Waiver (TBI)

Serves clients who meet Medicaid guidelines and are either 65 years old or have disabilities. Clients must meet level of care standards of a skilled or intermediate nursing facility. In addition the client must have an injury to the brain arising from external forces, including closed or open head injuries, toxic chemical reactions, anoxia, near drownings, and focal brain injuries. The client must demonstrate significant physical, cognitive, emotional, and/or behavioral impairment.

12000.4 Medically Fragile Children Wavier (MFC)

Serves clients who meet Medicaid guidelines and are under the age of 18 years. Clients must meet level of care standards of a skilled nursing facility. Medically fragile means a severe, chronic physical condition which results in a prolonged dependency on medical care or technology to maintain health and well-being. The client has chosen to receive services in a home setting.

(b) Authority.

42 CFR 430(c)

Social Security Act, Section 1915(c)

(c) Procedure.

On the local level, the point of entry for the above mentioned waivers shall be the local AAA in the PSA of the client's residency.

(d) Traumatic Brain Injury (TBI)

Individuals meeting the Level of Care and Medicaid eligibility requirements must also meet the following criteria in order to receive services through this Waiver:

**Aged (Age 65 and older)
Disabled
Traumatic Brain Injured**

The following services are available to individuals through the Traumatic Brain Injury Medicaid Waiver:

**Case Management
Homemaker
Respite Care
Adult Day Services
Residential Habilitation
Structured Day Program
Supported Employment
Environmental Modification
Health Care Coordination
Transportation
Specialized Medical Equipment
Personal Emergency Response System
Attendant Care
Occupational Therapy
Speech Therapy
Behavior Management
Vehicle Modifications**

(e) Medically Fragile Children (MFC)

Individuals meeting Level of Care and Medicaid eligibility requirements must also meet the following criteria in order to receive services through this Waiver:

**Disabled
Under age 18
Severe and chronic physical condition which results in prolonged dependency on Medical care or technology**

The following services are available to individuals through the Medically Fragile Children Medicaid Waiver:

**Case Management
Respite Care
Environmental Modifications (maintenance)
Attendant Care
Vehicle Modifications**

(f) Aged and Disabled (AD)

Waiver Specific Eligibility Criteria

Individuals meeting Level of Care and Medicaid eligibility requirements must also meet at least one of the following criteria in order to receive services through this waiver:

**Aged (Age 65 and older)
Disabled**

Services Available:

**Case Management
Homemaker
Respite Care
Adult Day Services
Environmental Modifications
Transportation
Specialized Medical Equipment
Personal Emergency Response System
Attendant Care
Adult Foster Care
Congregate Care
Home Delivered Meals
Nutritional Supplements
Pest Control
Community Transition Services
Vehicle Modifications**

(h) Assisted Living (AL)

Individuals meeting the Level of Care and Medicaid eligibility requirements must also meet the following criteria in order to receive services through this Waiver:

Age 18 and older

Disabled

The following services are available to individuals through the Assisted Living Medicaid Waiver:

Case Management

Assisted Living Services

APPENDIX I

STATE PLAN PROVISIONS OLDER AMERICANS ACT 45 CFR 1321.17

Sec. 1321.17 Content of State plan.

To receive a grant under this part, a State shall have an approved State plan as prescribed in section 307 of the Act. In addition to meeting the requirements of section 307, a State plan shall include:

- a. Identification by the State of the sole State agency that has been designated to develop and administer the plan.
- b. Statewide program objectives to implement the requirements under Title III of the Act and any objectives established by the Commissioner through the rulemaking process.
- c. A resource allocation plan indicating the proposed use of all title III funds administered by a State agency, and the distribution of title III funds to each planning and service area.
- d. Identification of the geographic boundaries of each planning and service area and of area agencies on aging designated for each planning and service area, if appropriate.
- e. Provision of prior Federal fiscal year information related to low income minority and rural older individuals as required by sections 307(a) (23) and (29) of the Act.
- f. Each of the assurances and provisions required in sections 305 and 307 of the Act, and provisions that the State meets each of the requirements under Secs. 1321.5 through 1321.75 of this part, and the following assurances as prescribed by the Commissioner:
 1. Each area agency engages only in activities which are consistent with its statutory mission as prescribed in the Act and as specified in State policies under Sec. 1321.11;
 2. Preference is given to older persons in greatest social or economic need in the provision of services under the plan;
 3. Procedures exist to ensure that all services under this part are provided without use of any means tests;
 4. All services provided under title III meet any existing State and local licensing, health and safety requirements for the provision of those services;
 5. Older persons are provided opportunities to voluntarily contribute to the cost of services;
 6. Area plans shall specify as submitted, or be amended annually to include, details of the amount of funds expended for each priority service during the past fiscal year;
 7. The State agency on aging shall develop policies governing all aspects of programs operated under this part, including the manner in which the ombudsman program operates at the State level and the relation of the ombudsman program to area agencies where area agencies have been designated;
 8. The State agency will require area agencies on aging to arrange for outreach at the community level that identifies individuals eligible for assistance under this Act and other programs, both public and private, and informs them of the availability of assistance. The outreach efforts shall place special emphasis on reaching older individuals with the greatest economic or social needs with particular attention to low income minority individuals, including outreach to identify older Indians in the planning and service area and inform such older Indians of the availability of assistance under the Act.
 9. The State agency shall have and employ appropriate procedures for data collection from area agencies on aging to permit the State to compile and

- transmit to the Commissioner accurate and timely statewide data requested by the Commissioner in such form as the Commissioner directs; and
10. If the State agency proposes to use funds received under section 303(f) of the Act for services other than those for preventive health specified in section 361, the State plan shall demonstrate the unmet need for the services and explain how the services are appropriate to improve the quality of life of older individuals, particularly those with the greatest economic or social need, with special attention to low-income minorities.
 11. Area agencies shall compile available information, with necessary supplementation, on courses of post-secondary education offered to older individuals with little or no tuition. The assurance shall include a commitment by the area agencies to make a summary of the information available to older individuals at multipurpose senior centers, congregate nutrition sites, and in other appropriate places.
 12. Individuals with disabilities who reside in a non-institutional household with and accompany a person eligible for congregate meals under this part shall be provided a meal on the same basis that meals are provided to volunteers pursuant to section 307(a)(13)(I) of the Act.
 13. The services provided under this part will be coordinated, where appropriate, with the services provided under title VI of the Act.
 14.
 - i. The State agency will not fund program development and coordinated activities as a cost of supportive services for the administration of area plans until it has first spent 10 percent of the total of its combined allotments under Title III on the administration of area plans;
 - ii. State and area agencies on aging will, consistent with budgeting cycles (annually, biannually, or otherwise), submit the details of proposals to pay for program development and coordination as a cost of supportive services, to the general public for review and comment; and
 - iii. The State agency certifies that any such expenditure by an area agency will have a direct and positive impact on the enhancement of services for older persons in the planning and service area.
 15. The State agency will assure that where there is a significant population of older Indians in any planning and service area that the area agency will provide for outreach as required by section 306(a)(6)(N) of the Act.

Sec. 1321.19 Amendments to the State plan.

- a. A State shall amend the State plan whenever necessary to reflect:
 1. New or revised Federal statutes or regulations,
 2. A material change in any law, organization, policy or State agency operation, or
 3. Information required annually by sections 307(a) (23) and (29) of the Act.
- b. Information required by paragraph (a)(3) of this section shall be submitted according to guidelines prescribed by the Commissioner.
- c. If a State intends to amend provisions of its plan required under Secs. 1321.17 (a) or (f), it shall submit its proposed amendment to the Commissioner for approval. If the State changes any of the provisions of its plan required under Sec. 1321.17 (b) through (d), it shall amend the plan and notify the Commissioner. A State need only submit the amended portions of the plan.¹

¹ Added 5-13-05

APPENDIX II

FSSA DA SERVICE CODES

NAME CODE

OLDER HOOSIER FUNDS	2502
IN HOME CASE MANAGEMENT---EXPANSION	2503
IN HOME ADMINISTRATION---EXPANSION	2504
IN HOME DISABLED---EXPANSION	2505
IN HOME ELDERLY---EXPANSION	2506
IN HOME CASE MANAGEMENT---GRANDFATHERED	2513
IN HOME ADMINISTRATION---GRANDFATHERED	2514
IN HOME DISABLED---GRANDFATHERED	2515
IN HOME ELDERLY---GRANDFATHERED	2516
SSBG CASE MANAGEMENT	2600
SSBG ADMINISTRATION	2601
SSBG CLIENT SERVICES	2602
ADULT GUARDIANSHIP SERVICES	2700
TITLE III-A ADMINISTRATION	3100
TITLE III-B SUPPORTIVE SERVICES	3200
TITLE III-C1 CONGREGATE MEALS	3300
TITLE III-C2 HOME DELIVERED MEALS	3400
TITLE III-D IN HOME	3500
USDA	3600
TITLE III-F PREVENTIVE HEALTH	3700
TITLE VII OMBUDSMAN SUPPLEMENT	3800
TITLE VII PENSION COUNSELING	3801
TITLE V ADMINISTRATION	5005
TITLE V ENROLLEE WAGES AND FRINGES	5006
TITLE V OTHER ENROLLEE COSTS	5007

APPENDIX III - NOTIFICATION OF CLIENT RIGHTS

As a person applying for or receiving services through an Area Agency on Aging, you have the right to disagree with decisions made about your care. These decisions would include:

- being found ineligible for services;
- having services denied to you;
- having services discontinued or reduced; or
- having services provided which you feel are not in your best interests.

If you have such a complaint, you may appeal according to the following steps:

STEP 1: INFORMAL REVIEW WITH CASE MANAGER AND CASE MANAGER SUPERVISOR

Discuss any complaints informally with the case manager and case manager supervisor working for the Area Agency on Aging (AAA) where you applied or have received federal or state funded services. This discussion may take place either at your home or at your AAA. You may choose a representative to come with you. The case manager supervisor must issue a decision regarding your complaint, in writing to you within 5 working days of the date of your meeting. The case manager supervisor shall inform you that you may request, in writing, an 'Agency Review' to the AAA executive director or designee, within 18 calendar days of the date of the case manager supervisor's decision.

STEP 2: AGENCY REVIEW

If discussing the matter with your case manager and case manager supervisor does not provide you with a satisfactory decision, you may make a request in writing for an 'Agency Review'. Send your written request to the executive director of your AAA asking for an Agency Review of the case manager supervisor's decision. This request must be made within 18 calendar days of the date of the case manager supervisor's decision. The executive director of the AAA or designee, will then conduct the Agency Review at your home or the AAA office, whichever you request. You, your representative (if you require one), the case manager or the case manager's supervisor shall attend the review. You or your representative will be given the chance to testify, present supporting materials, and explain why you disagree with the action or decision and what you would view as an appropriate alternative. The case manager or the case manager supervisor may testify and explain the reasons for the decision or action taken. Immediately following the review, the executive director or designee conducting the review shall consider your comments or the comments of your representative and the comments of the case manager or the case manager's supervisor. Within 5 working days, the executive director, or designee after consulting with the executive director, shall prepare the AAA's final decision, in writing, including the specific reason for the decision. You or your representative shall be sent a copy of the decision by registered or certified mail, return receipt requested. The decision shall inform you of your rights to have an 'Administrative Hearing', if dissatisfied with the final decision.

STEP 3: ADMINISTRATIVE HEARING

If you are dissatisfied with the decision resulting from the Agency Review, you may request an 'Administrative Hearing' by writing to the Deputy Director, Division of Aging Services, **Division of Disability, and Rehabilitative Services**. Your written request must be signed and dated. You must send this request to the deputy director within 18 calendar days of the date of the decision from the Agency Review. The Division of Aging and Rehabilitative Services (**DDRS**) Director will appoint an Administrative Law Judge (ALJ) who will notify you of the date, time, and location of your hearing, and conduct the hearing. This hearing is conducted under oath and will give you, the AAA, and anyone else whom you may choose to accompany you to the hearing an opportunity to present written material into evidence as well as present additional information and ask questions. The ALJ will issue the findings and decision, which will be sent to you and to the Director of **DDRS**. The **DDRS** Director will make a final decision in writing after reviewing the ALJ's proposed findings and decision and notify you of that decision. If you are dissatisfied with the Director's decision, then you may request a Judicial Review by filing an action in the Circuit or Superior Court of the county where you live, Marion County, or of the county where the decision is to be enforced, within 30 days of receipt of the Director's decision.

CONTINUATION OF SERVICES DURING AN APPEAL

If you appeal a decision which stopped your service(s), those services will usually resume until the appeal is resolved. **The Division of Disability and Rehabilitative Services** reserves the right to end or deny, at any time, services which would be harmful to you or which violate state or federal law, regulations or policies.

LEGAL COUNSEL AND INTERPRETER SERVICES

The State will not pay for your legal counsel any time during the appeal process. Interpreter services will be made available to assist you, if you are deaf or non-English speaking, if you request. Reader services will be made available to you if you are blind and if you make a request. If you require these services to participate in the Agency Review or the Administrative Hearing, prior to the date of the review or hearing, you must make arrangements with your AAA case manager.¹

¹ Added 5-13-05

Nutrition Services - Appendix A - Menu Standards

(a) The purpose of Menu Standards is to sustain and improve client health through the provision of safe and nutritious meals using specific guidelines¹.

(b) All contracts, and open solicitations for meals should incorporate the Dietary Guidelines for Americans, The FSSA Division of Aging Dietary Reference Intakes (DRIs) Requirements, and incorporate the Meal Planning Guidance below.

DIETARY GUIDELINES FOR AMERICANS

Part 1

(a) Meals provided through the program shall comply with the Dietary Guidelines for Americans, published by the Secretary of Health and Human Services and the Secretary of Agriculture. The Dietary Guidelines for Americans provide science-based advice to promote health and to reduce the risk for major chronic diseases through diet and physical activity.²

(b) The guidelines include such things as:

- (1) consuming a variety of foods within and among the basic food groups while staying within energy needs;
- (2) controlling calorie intake to manage body weight;
- (3) being physically active each day;
- (4) increasing daily intake of fruits and vegetables, whole grains, and nonfat or low-fat milk and milk products;
- (5) choosing fats wisely for good health;
- (6) choosing carbohydrates wisely for good health;
- (7) choosing and preparing foods with little salt; and
- (8i) keeping food safe to eat.

THE DIETARY REFERENCE INTAKES (DRIs)

Part 2

(a) The Dietary Reference Intakes (DRIs) are a set of dietary references based on the Recommended Dietary Allowances for essential vitamins and minerals and, in selected groups, protein. The name "RDI" replaces the term "U.S. RDAs". They are established by the National Academy of Sciences. They are updated periodically to reflect current scientific knowledge.³

¹ Maryland Office on Aging, Menu Standards For The Senior Nutrition Program, Effective FY97.

² Source: Part A: Executive Summary, 2005 Report of the Dietary Guidelines Advisory Committee, page 1

³ Source: Kurtzwell, Paula, "Daily Values' Encourage Healthy Diet", U.S. Food and Drug Administration, www.fda.gov.

(b) According to the 2005 Report of the Dietary Guidelines Advisory Committee, the committee recommends that food guidance (planning) aim to achieve the most recent Recommended Dietary Allowances (RDAs), Adequate Intakes (AIs), and Acceptable Macronutrient Distribution Ranges (AMDRs) considering the individual's life stage, gender, and activity level. The committee also recommends that the guidance consider the Tolerable Upper Intake Levels (ULs).¹

(1) **Recommended Dietary Allowances (RDA)** and **Adequate Intakes (AI)** - RDAs and AIs may both be used as goals for individual intakes. RDAs are set to meet the needs of all most (97 to 98 percent) individuals in a group. For Healthy breastfed infants, the AI is the mean intake. The AI for other life stage and gender groups is believed to cover the needs of all individuals in the group, but lack of data prevent being able to specify with confidence the percentages of individuals covered by this intake.²

(2) **Acceptable Macronutrient Distribution Range (AMDR)** – Is the range of intake for a particular energy source that is associated with reduced risk of chronic disease while providing intakes of essential nutrients.³

(3) **Upper Limit (UL)** – The maximum level of daily nutrient intake that is likely to pose no risk of adverse effects.⁴

THE DIVISION OF AGING DIETARY REFERENCE INTAKES (DRIs) REQUIREMENTS **PART 3**

(a) The Indiana Senior Nutrition Program menus are to adhere to the specific nutrient guidance found in the FSSA DA Dietary Intakes (DRIs) Requirements (see chart on next page). The basis for the nutrients selected include the following:

(1) Studies and publications by The National Academies⁵, and the 2005 Dietary Guidelines Advisory Committee Report;⁶

(2) The State of Aging and Health in America 2004 report, released by The Merck Institute of Aging & Health (MIAH), the Centers for Disease Control and Prevention (CDC) and the Gerontological Society of America (GSA). The report, assess the health status of the growing number of older Americans and makes recommendations to

²Part D: Science Base, 2005 Report of the Dietary Guidelines Advisory Committee, page 2.

³Part D: Science Base, 2005 Report of the Dietary Guidelines Advisory Committee.

⁴Part D: Science Base, 2005 Report of the Dietary Guidelines Advisory Committee.

⁵Part D: Science Base, 2005 Report of the Dietary Guidelines Advisory Committee.

⁵ The National Academies - copyright 2001, 2002 and 2004

- [Dietary Reference Intakes: Water, Potassium, Sodium, Chloride, and Sulfate](#), February 11, 2004
- [Dietary Reference Intakes for Energy, Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein, and Amino Acids](#), September 5, 2002
- [Dietary Reference Intakes for Vitamin A, Vitamin K, Arsenic, Boron, Chromium, Copper, Iodine, Iron, Manganese, Molybdenum, Nickel, Silicon, Vanadium, and Zinc](#), January 9, 2001
- [Dietary Reference Intakes for Vitamin C, Vitamin E, Selenium, and Carotenoids](#), August 3, 2000
- Dietary Reference Intakes for Thiamin, Riboflavin, Niacin, Vitamin B6, Folate, Vitamin B12, Pantothenic Acid, Biotin, and Choline, June 2000
- [Dietary Reference Intakes for Calcium, Phosphorus, Magnesium, Vitamin D, and Fluoride](#), 1-1-97

⁶ 2005 Dietary Guidelines Advisory Committee Report

improve the mental and physical health of all Americans in their later years;¹

(3) Dietary Guidelines for Americans 2005 – specifically, Total Fat, Sodium, Iron, Calcium, and Fiber;²

(4) The Center For Safety and Applied Nutrition, U.S. Food and Drug Administration, Nutrition Food Labeling. Specifically addressed nutrients currently required to be included on food labels (consumer based).³

¹ The State of Aging and Health in America 2004, The Merck Institute of Aging & Health

² Dietary Guidelines for Americans 2005, U.S.D.A

³ The Center For Safety and Applied Nutrition, U.S. Food and Drug Administration, Nutrition Food Labeling
www.fda.gov/label.html

DRIs – PART 4

FSSA Division of Aging Dietary Reference Intakes (DRIs) Requirements	
(A) Macronutrients	Requirement
CALORIES¹	A minimum of 684 Kcals./meal ² for both Entrée Choice One and Two.
TOTAL FAT	Limit Total Fat to no less than 20% of total calories and no more than 35% of total calories/meal ⁶ for both Entrée Choice One and Two.
FIBER¹	<p>A minimum of 10.0 g/meal³ for both Entrée Choice One and Two.</p> <p>Fiber is best obtained from foods such as, whole grains, fruits, and vegetables rather than fiber supplements, therefore, use of fiber supplements, isolated or synthetic fiber and fiber laxatives is prohibited.</p>
(B) Elements	Requirement
CALCIUM¹	A minimum of 400.0 mg/meal ³ not to exceed weekly average of 833.3 mg/meal ⁵ for both Entrée Choice One and Two.
(C) Electrolytes	Requirement
SODIUM¹	A minimum of 400 mg/meal ⁴ not to exceed weekly average of 800 mg/meal ⁶ for both Entrée One and Two.
<p><u>TABLE DEFINITIONS AND ABBREVIATIONS</u></p> <p>(d) g = gram</p> <p>(e) Kcals. = Kilocalories (Recommended energy allowances are stipulated as kilocalories (kcal) per day of physiologically available energy (i.e., the amount of potential food energy that can be absorbed and utilized).</p> <p>(f) mg = milligram</p> <p>¹ A minimum of one-third (1/3) of the RDA per meal daily for both Entrée Choice One and Two</p> <p>² Based on 1/3 DRI: RDA or AI 70+ Male</p> <p>³ Based on 1/3 DRI: RDA 70+ Male</p> <p>⁴ Based on 1/3 DRI: AI 70+ Male</p> <p>⁵ Based on 1/3 DRI: AI - UL 70+ Male</p> <p>⁶ Nutrition and Your Health: Dietary Guidelines for Americans – United States Department of Agriculture and United States Department of Health and Human Services</p>	

MEAL PLANNING GUIDANCE
PART 5

(a) Due to the Older Americans Act (as amended in 2000) requirements that provided meals comply with the current Dietary Guidelines for Americans and the DRIs, standardized meal patterns are disallowed. However, providers still must plan individual meals based on the recommendations of the Dietary Guidelines For Americans.

(b) This includes consumption of foods from each of the following basic food groups;¹

(1) fruits

(2) vegetables

(3) grains

(4) milk, yogurt, and cheese

(5) meat, poultry, fish, dry beans, eggs, and nuts

(c) Consumption of a variety of food commodities within each of those food groups --since higher energy intake is strongly associated with greater variety and higher nutrient intake, attention also should be given to food group choices that maintain appropriate energy balance.²

¹Question 2: What Dietary Pattern is Associated With Achieving Recommended Nutrient Intakes?, Section 10: Major Conclusions, Part D: Science Base, 2005 Report of the Dietary Guidelines Advisory Committee, page 1.

²Question 2: What Dietary Pattern is Associated With Achieving Recommended Nutrient Intakes?, Section 10: Major Conclusions, Part D: Science Base, 2005 Report of the Dietary Guidelines Advisory Committee, page 1.

MENU PLANNING

PART 6

(a) Meat, Poultry, Fish, Dry Beans, Eggs, & Nut Group:

The meal shall contain no less than 2 ounces of cooked edible portion of cooked lean meat, poultry, or fish¹ or 2 ounces of Meat Alternate (iii)²

(1) Meat

(A) Meat serving weight is the edible portion, not including skin, bone, or coating.

(B) Since older adults and people with weakened immune systems are at higher risk for listeriosis, the Food and Drug Administration is advising these individuals not to consume **(and FSSA DA is advising AAAs not to serve) the following:**

(i) raw meat or poultry, unheated hot dogs and luncheon meats, cold cuts, fermented and dry sausage, and other deli-style meat and poultry products unless these products are reheated until steaming hot;³

(ii) refrigerated pates or meat spreads. Canned or shelf-stable pates and meat spreads may be eaten;

(iii) refrigerated smoked seafood, unless it is contained in a cooked dish, such as a casserole. Refrigerated smoked seafood, such as salmon, trout, whitefish, cod, tuna, or mackerel, is most often labeled as “nova-style,” “lox,” “kippered,” “smoked,” or “jerky.” Canned or shelf-stable smoked seafood may be eaten;

(iv) raw fin fish and shellfish, including oysters, clams, mussels, and scallops.

(C) If an AAA chooses to disregard the above FDA advisory and FSSA DA guidance, the AAA must adhere to the Indiana State Department of Health, Retail Food Establishment Sanitation Requirements – Title 410 IAC 7-24, Section 196, which outlines specific Consumer Advisory procedures.

(2) Wild Game (wild animals and birds) is not allowed to be served. Game species raised on U.S. farms under appropriate regulations may be served, however, the game must be USDA inspected and documentation must be kept by the nutrition service provider (please note, USDA inspection is voluntary for certain food products from game species).⁴

¹Appendix A-2 USDA Food Guide, Lean Meat and Beans (2000 – 2200 Calorie Level). Page 53, Dietary Guidelines For Americans, 2005, U.S. Department of Health and Human Services, and USDA.

²Table 1. Sample USDA Food Guide and DASH Eating Plan at the 2,000-Calorie Level. Dietary Guidelines For Americans, 2005, U.S. Department of Health and Human Services, and USDA.

³Source: Consumer Advisory: “How to Safely Handle Refrigerated Ready-To-Eat Foods and Avoid Listeriosis”, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, October 2003 and To Your Health! Food Safety for Seniors, FDA, October 2000.

⁴Source: Food Safety of Farm-Raised Game: Food Safety Focus, Food Safety and Inspection Service, USDA, Washington, D.C., April, 2004

(A) Large game animals include such things as antelope, buffalo, bear, caribou, deer, elk, moose, reindeer, wild boar and other species.

(B) Small game animals include such things as alligator, rabbit, squirrel, beaver, muskrat, opossum, raccoon, armadillo, porcupine, and other species.

(C) Game birds include grouse, guinea fowl, partridge, squab (young pigeon), quail, pheasant, wild ducks, wild geese, wild turkey, ratites (emu, ostrich, and rhea) and other species. Rock Cornish hens, thought by many consumers to be game birds are actually young domesticated chickens.

(3) Meat Alternate for One Ounce of Cooked Lean Meat:

(A) **Servings** - The following counts as a serving:

- (i) ½ cup of cooked dry beans, peas or lentils;
- (ii) ½ cup of tofu;
- (iii) 2 ½ ounce soy-burger;
- (iv) 1 ½ ounces of natural cheese (pasteurized only);
- (v) ½ cup of cottage cheese (pasteurized only);
- (vi) 1 medium egg (pasteurized only); or
- (vii) 2 tablespoons of peanut butter or 1/3 cup of nuts.

(4) Dry Beans, Peas, and Lentils

(A) Dried beans, peas and lentils include: black beans, great northern beans, kidney beans, lima beans, mixed beans (two or more varietal types of beans in any proportions), navy beans, pink beans, pinto beans, red beans, yellow eye beans, black-eyed peas or field peas, garbanzos or chick-peas, green split peas, yellow split peas, brown lentils, red lentils.

(B) Dry beans, peas, and lentils may be counted as servings in either **the Meat, Poultry, Fish, Dry Beans, Eggs, & Nut Group** or the Starchy Vegetables under the **Bread, Cereal, Rice, and Pasta Group**. As a Starchy Vegetable, ½ cup of cooked, dry beans, peas, and lentils counts as 1 serving. Dry beans, peas, and lentils may not be counted as a **Meat, Poultry, Fish, Dry Beans, Eggs, & Nut Group** serving and a Starchy Vegetable in the same meal.

(C) **Cheese** – Please refer to Milk, Yogurt, and Cheese Group.

(D) **Eggs** - Since older adults and people with weakened immune systems are at higher risk for Salmonella Enteritidis (SE) the Food and Drug Administration is advising these individuals not to consume any foods containing raw eggs. Therefore, these products are not allowed to be served. Please note foods made

from commercially pasteurized eggs are safe to eat.¹

This includes “health food” milk shakes made with raw eggs, Caesar salad, Hollandaise sauce, and any other foods like homemade mayonnaise, ice cream, or eggnog made from recipes in which the egg ingredients are not cooked.²

(5) **Nuts/Seeds** – Whole or coarsely chopped nuts and seeds tend to be more difficult to chew, and could present a choking hazard. (Due to the possibility of food allergy, providers may only serve one food item containing nuts/seeds per meal. It should be indicated on the posted menu which food item contains nuts/seeds.)

(6) **Combination Foods** - Meat, Poultry, Fish, Dry Beans, Eggs, and Nuts Group items may be combined to fulfill the serving requirement, such as 1 ounce of ham and ½ cup of cooked dry navy beans (as food items in ham and beans), 1 ½ ounces of cheddar cheese and 1 ounce of ham (as food items in macaroni and cheese with ham), or 1 ½ ounce soy-burger with 1 1/2 ounces of American cheese on a bun.

(b) **Vegetable Group**

(1) **Servings** - The following counts as a serving:

(A) 1 cup of raw leafy vegetables

(B) ½ cup of other vegetables- cooked (drained) or raw (pieces, shredded, chopped)

(C) ¾ cup vegetable juice (pasteurized only)

(2) For Starchy Vegetable list and restrictions, please refer to Bread, Cereal, Rice and Pasta Group, Starchy Vegetables.

(3) Since older adults and people with weakened immune systems are at higher risk for Salmonella and E. Coli the Food and Drug Administration is advising these individuals not to consume **(and FSSA DA is advising AAAs not to serve)**, raw sprouts (alfalfa, clover, and radish).³

(4) If an AAA chooses to disregard the above FDA advisory and FSSA DA guidance, the AAA must adhere to the Indiana State Department of Health, Retail Food Establishment Sanitation Requirements – Title 410 IAC 7-24, Section 196, which outlines specific Consumer Advisory procedures.

¹ Source: To Your Health! Food Safety for Seniors, U.S. Food and Drug Administration, Center for Food Safety and Applied Nutrition, October 2000.

² Source: Focus on Shell Eggs, Food Safety and Inspection Service, USDA, Washington, D.C., February 2003 and To Your Health! Food Safety for Seniors, U.S. Food and Drug Administration, Center for Food Safety and Applied Nutrition, October 2000.

³ Source: To Your Health! Food Safety for Seniors, U.S. Food and Drug Administration, Center for Food Safety and Applied Nutrition, October 2000 and FDA Talk Paper, Food and Drug Administration, Interim Advisory on Alfalfa Sprouts, August 31, 1998.

(5) The following products **do not qualify** as vegetable and may **not** be credited toward meeting the vegetable requirement in any meal served:

(A) snack-type foods made from vegetables, such as potato chips;

(B) deep-fried vegetable products, such as french fries, potato rounds, hash browns, vegetable sticks, mushrooms, cauliflower, etc;

(C) home canned products (for food safety reasons); or dehydrated vegetables used for seasoning.

(c) **Fruit Group**

(1) **Servings** - The following counts as a serving:

(A) whole fruit such as 1 medium apple, banana, orange, pear;

(B) $\frac{3}{4}$ cup of 100 % fruit juice (pasteurized only);

(C) $\frac{1}{2}$ cup of berries;

(D) $\frac{1}{4}$ cup dried fruit;

(E) $\frac{1}{2}$ cup of chopped, cooked or canned fruit;

(F) $\frac{1}{2}$ cup fruit puree;

(G) a grapefruit half; or

(H) a melon wedge.

(2) A serving of canned fruit may include the juice or syrup in which the fruit is packed.

(3) The following products **do not qualify** as fruit and may **not** be credited toward meeting the fruit requirement in any meal served:

(A) snack-type foods made from fruits, such as banana chips; jam, or jelly; or

(B) home canned products (for food safety reasons)

(C) Plum puree may not count as fruit when it is used to replace fat in a food item.

(d) **Bread, Cereal, Rice, and Pasta Group**

(1) All grains/breads items must be enriched or whole-grain, made from enriched or whole-grain meal and/or flour. If using a cereal it must be whole-grain, enriched, or fortified.

(2) **Servings** - The following counts as a serving:

- (A) 1 small tortilla, 6" diameter;
- (B) 1 slice of bread;
- (C) ½ sandwich bun or English muffin small roll, biscuit, or muffin;
- (D) 1 piece of cornbread (2 ½ in. x 2 ½ in. x 1 ½ in.);
- (E) 5-6 small or 3-4 large crackers;
- (F) about 1 cup of ready-to-eat cereal;
- (G) ½ cup cooked cereal, grits, rice or pasta;
- (H) ½ cup bread dressing/stuffing;
- (I) 2 inch cube of corn bread;
- (J) 2 pancakes, 4" diameter;
- (K) ½ bagel;

(e) **Starchy Vegetables** -

- (1) Green peas, corn, potatoes, dried beans, peas and lentils, yams, squash, and plantains.
- (2) If a starchy vegetable is served, limit to 1 serving per meal.
- (3) **Serving** - ½ cup cooked counts as a serving.

(f) **Milk, Yogurt, and Cheese Group** - Choose fat-free or reduced-fat dairy products most often.

(1) **Servings** - The following counts as a serving:

- (A) 1/2 pint or 8-10 ounces of pasteurized fluid milk and/or pasteurized plain yogurt;
- (B) 1½ cup of pasteurized cottage cheese;
- (C) 1½ ounces of pasteurized natural cheese (such as cheddar; mozzarella, swiss); or
- (D) 2 ounces of pasteurized processed cheese (such as American).

(2) **Milk** -

(A) Includes (fortified with Vitamin D): whole milk, 2% low fat milk, 1% low fat milk, fat-free skim milk, buttermilk, low-fat chocolate milk, or lactose-reduced milk, lactose-free milk.

(3) **Cheese** -

(A) Includes reduced fat, low fat, nonfat, and lite versions of cheese, cheese food, and cheese spread.

(B) Since older adults and people with weakened immune systems are at higher risk for listeriosis the Food and Drug Administration is advising these individuals not to consume, soft cheese such as Feta, Brie, and Camembert cheeses, blue-veined cheeses, and Mexican-style cheese such as queso blanco fresco and Panela unless it is labeled as made with pasteurized milk.¹ Therefore, unless pasteurized, the above listed products are not allowed to be served.

(C) Any item labeled with the wording “imitation” cheese or cheese “product” does not meet the requirements for use in food-based menu planning approaches and are not creditable towards meal pattern requirements.

(4) **Cheese Substitutes** -

(A) “Cheese Substitute,” “cheese food substitute,” and “cheese spread substitute” must meet FDA standard of identity for substitute foods and be labeled as “_____ Cheese Substitute,” “cheese food substitute,” or “cheese spread substitute.” The standard requires that a “cheese substitute” is not nutritionally inferior to the standardized cheese for which it is substituting.

(g) **Fats, Oils & Sweets** -

(1) Fats (Butter or fortified Margarine) (if appropriate)

(A) **One teaspoon should** be served with each meal.

(B) Oil, butter or margarine used in **cooking and any butter or fortified margarine offered at the table (one teaspoon)** must be calculated into the meal's total fat and saturated fat analysis.

(g) **Beverages** -

(1) It is recommended that a glass of water be served with each congregate meal.

¹ Source: Consumer Advisory: “How to Safely Handle Refrigerated Ready-To-Eat Foods and Avoid Listeriosis”, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, October 2003.

(2) The following items may not be provided as part of the program meal:

(A) alcoholic beverages including beer, liquor and wine; or

(B) soft drinks and colas.

(3) **Coffee, tea, decaffeinated beverages, and/or fruit flavored drinks (not fortified with vitamins or minerals) may be provided**, but, may not be counted as fulfilling any part of the meal requirements, nor may NSIP funds be used to purchase such items.

SPECIAL MEALS, MODIFIED MEALS, MEDICAL FOODS, THERAPEUTIC DIETS AND ALTERNATIVE DESSERT OFFERINGS

PART 7

(a) The AAA must provide meals that to the maximum extent practicable, are adjusted to meet any special dietary needs of program participants.¹

(1) **FSSA DA recommends that each AAA have a written policy outlining if the agency offers special meals, modified meals, medical foods, therapeutic diets, and/or an alternate dessert. The Older American's Act of 1965 as amended in 2000 and the FSSA Division of Aging do not mandate AAAs to provide these meals, diets, and/or desserts.**

(2) **For agencies choosing not to offer modified meals, medical foods, and/or therapeutic diets, but may or may not offer an alternate dessert the following is recommended;**

(A) Congregate Meal Site Participants

(i) **The AAA should develop a disclaimer for posting at all congregate meal sites outlining the AAA offered meal, including any offered alternate dessert option.**

(ii) **EXAMPLE: Meal Served**

"Each day's meal is planned to contain a minimum of 684 calories, 20 to 35 percent of total calories from fat, a minimum of 10.0 gm of dietary fiber, a minimum of 400.0 mg of calcium, and 400 mg of sodium - not to exceed weekly average of 800 mg of sodium. For those participants following a physician prescribed diet, please confer with your physician prior to starting meals to ensure offered meal meets dietary restrictions."

¹ Older Americans Act (as amended in 2000), Part C-Nutrition Services: Subpart 3-General Provisions, Section 339(2)(A)

(iii) **EXAMPLE: Alternate Dessert**

“The AAA does offer an alternate dessert option to the standard dessert listed on the menu. Typically, the alternate dessert is lower in calories, fat, and simple (refined) carbohydrates. Examples include fresh fruit, sugar-free gelatin and pudding, small servings (typically limited to one time per week) of angel food cake, sponge cake without icing, gingersnaps, vanilla wafers or similar items. Please see the Site Manager for the AAA’s alternate dessert option.”
(Please note it is up to the individual AAA to determine a definition of their offered alternate dessert).

(B) Home Delivered Meal Participants

(i) The AAA should develop a disclaimer, for homebound participant and/or legal guardian signature (if following a modified meal, medical food, and/or therapeutic diet prior to starting AAA meals) outlining the AAA offered meal, including any offered alternate dessert option.

(ii) The disclaimer is to inform each participant and/or legal guardian of what type of meal is offered by the AAA and let the participant and/or legal guardian confer with the participant’s physician to ensure the meal will meet the participant’s needs without causing undo harm; or

(iii) The AAA should develop a letter to be sent to the homebound participant’s physician (for participants following a modified meal, medical food, and/or therapeutic diet prior to starting AAA meals) outlining the offered AAA meal, including any offered alternate dessert option. The intent of the letter is to confirm with the participant’s physician if the AAA meal will meet the participant’s needs without causing undo harm.

(iv) For agencies choosing to offer modified meals, medical foods, and/or therapeutic diets, but may or may not offer an alternate dessert the following is recommended:

(C) Home Delivered Meal Participants and Congregate Meal Participants (if meals, foods, and/or diets are offered)

(i) The AAA should develop a letter to be sent to the individual participant’s physician (for participants following a modified meal, medical food, and/or therapeutic diet prior to starting AAA meals) specifically listing the AAA offered modified meals, medical foods, and/or therapeutic diets, including any offered alternate dessert option by the AAA.

The intent of the letter is to confirm with the participant's physician if the AAA meal will meet the participant's needs

(iii) The diet order must have a date, diagnosis, and expiration date, and should be reviewed annually or sooner if deemed appropriate (i.e., diet order change or other significant change).

(iv) In addition, the AAA must establish specific written policies and procedures (for case management, AAA nutrition services, and the nutrition service provider) with regard to the documenting, preparing, handling, processing and monitoring of said meals and diets.

(b) Special Meals

(1) The AAA may require their nutrition service providers to provide ethnic and religious meals when feasible and appropriate ("maximum extent practicable"), to meet the particular dietary needs arising from the ethnic backgrounds, or religious requirements of program participants. To determine feasibility and appropriateness, the AAA **should** use the following criteria:

(A) there are sufficient numbers of participants who request the ethnic and religious meals to make the provision practical;

(B) the food and skills necessary to prepare the menus are available in the planning and service area;

(C) all menus comply with the menu planning requirements and menu standards (Appendix A); and

(D) proper preparation and service of the menus is assured by thorough documented training of personnel.

(C) MODIFIED MEALS

(1) The AAA may require their nutrition service providers to provide modified meals when feasible and appropriate ("maximum extent practicable"), to meet the particular dietary needs arising from the health requirements of program participants. To determine feasibility and appropriateness, the AAA should use the following criteria:

(A) There are sufficient numbers of participants who require the meals to make the provision practical;

(B) The AAA has the services of a registered dietitian to provide guidance to help coordinate proper preparation, service and oversight of modified meals;

(C) The food and skills necessary to prepare the meals are available in the planning and service area;

(D) Proper preparation and service of the menus is assured by thorough documented training of personnel; or

(E) The menus/meal must comply with the Menu **Planning Requirements and Menu Standards. (Appendix A).**

(d) MEDICAL FOODS AND THERAPEUTIC DIETS

(1) The AAA may require their nutrition service providers to provide medical foods and therapeutic diets when feasible and appropriate (“maximum extent practicable”), to meet the particular dietary needs arising from health requirements of program participants. To determine feasibility and appropriateness, the AAA **should** use the following criteria:

(A) there are sufficient numbers of participants who require the meals to make the provision practical;

(B) the AAA has the services of a registered dietitian to guidance to help coordinate proper preparation, service and oversight of medical foods and therapeutic diets;

(C) the food and skills necessary to prepare the meals are available in the planning and service area; and

(D) proper preparation and service of the menus is assured by thorough documented training of personnel.

(e) ALTERNATE DESSERT

(1) The AAA may require their nutrition service providers to provide alternate desserts when feasible and appropriate (“maximum extent practicable”), to meet the particular dietary needs arising from health requirements of program participants. To determine feasibility and appropriateness, the AAA **should** use the following criteria:

(A) there are sufficient numbers of participants who require the alternate dessert to make the provision practical;

(B) the AAA has the services of a registered dietitian to provide guidance to help the AAA define what constitutes the AAAs alternate dessert option, and to help coordinate proper selection and service of alternate desserts;

(C) the food and skills necessary to prepare the dessert are available in the planning and service area; and

(D) proper preparation and service of the dessert item is assured by thorough documented training of personnel.